SUPREME COURT OF THE UNITED STATES

OCTOBER TERM, 1964

No. 44

AMERICAN COMMITTEE FOR PROTECTION OF FOREIGN BORN, PETITIONER,

vs.

SUBVERSIVE ACTIVITIES CONTROL BOARD.

ON WRIT OF CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE DISTRICT OF COLUMBIA CIRCUIT

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IN THE UNITED STATES COURT OF APPEALS FOR THE DISTRICT OF COLUMBIA CIRCUIT

No. 15,960

AMERICAN COMMITTEE FOR PROTECTION OF FOREIGN BORN,
Petitioner,

v.

SUBVERSIVE ACTIVITIES CONTROL BOARD, Respondent.

On Review of Order of the Subversive Activities Control Board

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Joint and Supplemental Appendices—Filed August 16, 1962

[File endorsement omitted]

[fol. 3]

BEFORE THE SUBVERSIVE ACTIVITIES CONTROL BOARD

No. 109-53

HERBERT BROWNELL, JR., Attorney General of the United States, Petitioner,

v.

AMERICAN COMMITTEE FOR PROTECTION OF FOREIGN BORN, Respondent.

On Petition for an Order Requiring the American Committee for Protection of Foreign Born to Register with the Attorney General as Required by Section 7(b), (c) and (d) of the Internal Security Act of 1950.

FIRST AMENDED PETITION—Filed August 28, 1953

The Attorney General respectfully represents to the Subversive Activities Control Board that the American Committee for Protection of Foreign Born was required under Section 7(b), (c) and (d) of the Internal Security Act of 1950 to register and file a registration statement with the Attorney General on or before October 23, 1950, as a Communist-front organization and that it failed to do so and continues to fail to do so.

Pursuant to Section 13(a) of the Act, therefore, the Attorney General petitions this Board for an order, after appropriate proceedings, directing the American Committee for Protection of Foreign Born to register with the Attorney General as a Communist-front organization in the manner required by the Act.

[fol. 4] In support of this petition, the Attorney General alleges the following facts, based on information and belief, relating to the character of the American Committee for the Protection of Foreign Born as measured by the Standards specified in the Act.

I

From its inception in or about 1933 up to and including the date of the filing of this petition there has existed in the United States an organization known as the American Committee for Protection of Foreign Born (hereinafter referred to as the "Committee"). The Committee, which has been and is composed of a large number of members, functions through its national office in New York City and through affiliated branches and chapters throughout the United States. The national office provides leadership, counsel, direction and other assistance to the affiliated branches and chapters which implement on a local level policies, programs, and other objectives formulated and advanced by the national office.

The Committee prepares and distributes the periodical, "The Lamp", and the publication, "Review of the Year".

II

From in or about 1919 up to and including the date of filing this petition, there has existed in the United States an organization known by various names and which is now known as the Communist Party of the United States of America (hereinafter referred to as the Communist Party).

The Communist Party is not now and has not been a diplomatic representative or mission of a foreign government accredited as such by the United States Department of State.

[fol. 5] The Communist Party has been and is substantially directed, dominated and controlled by the government and Communist Party of the Soviet Union, and by the foreign organization controlling the world Communist movement, such foreign organization being known at various times as the Communist International and the Communist Information Bureau. Throughout its existence the Communist Party has operated and continues to operate primarily to advance the objectives of the world Communist movement which was organized by the Soviet Union and which has as its primary objective the establishment of Communist dictatorships of the Proletariat in all countries throughout the world, including the United States, and the

direction, domination and control of this movement is vested in and exercised by the Soviet Union.

The policies of the Communist Party are formulated and carried out, and its activities are performed, pursuant to directives of, and to effectuate the policies of, the Soviet Union, which directs and controls the world Communist movement.

The views and policies of the Communist Party do not deviate from the views and policies of the Soviet Union.

The Communist Party has received financial aid from or at the direction of the Soviet Union.

The Communist Party has sent its members and representatives to the Soviet Union for instruction and training in the principles, policies, strategy and tactics of the world Communist movement.

The Communist Party reports its program, activities and affairs to the Soviet Union.

The principal leaders of the Communist Party and a sub- [fol. 6] stantial number of its members are subject to and recognize the disciplinary power of the Soviet Union.

The Communist Party engages in secret practices for the purpose of promoting its objectives and concealing its direction, domination and control by the Soviet Union.

The principal leaders of the Communist Party and a substantial number of its members consider the allegiance they owe to the United States as subordinate to their loyalty and obligations to the Soviet Union.

The Communist Party has been found by this Board to be a Communist-action organization.

Therefore, the Communist Party has been and is a Communist-action organization as defined by Section 3(3) of the Act.

III

Throughout its existence, the Committee has been and is substantially directed, dominated and controlled by the Communist Party, and has been and is primarily operated for the purpose of giving aid and support to the Communist Party. Pursuant to Section 13(f) of the Act, the following facts are respectfully submitted for the consideration of the Board as illustrative of the above.

(1) From the inception of the Committee up to and including the date of the filing of this petition, a substantial number of the persons who have been active in the management, direction and supervision of the Committee, have been active in the management, direction and supervision of, and as representatives of, the Communist Party. Through these persons the Party has guided and directed the internal affairs of the Committee and has exercised direc- [fol. 7] tion over the formulation of the policies of the Committee. The following facts, among others, are illustrative of the above:

(a) The Committee was organized at the direction and with the assistance of the national officers of the Communist Party.

(b) The Communist Party has placed its members in active control of the Committee.

(c) The governing bodies of the Communist Party exercise the power of approval over the appointments of the officers of the Committee.

(d) The affairs and policies of the Committee have been discussed in meetings of the governing bodies of the Communist Party; decisions governing these matters have been transmitted to the Committee for its compliance.

(2) From its inception up to and including the date of the filing of this petition the Committee has received and continues to receive support, financial and otherwise, from and at the direction of the Communist Party as illustrated by the following facts, among others:

(a) The Communist Party has made contributions of money to the Committee.

(b) The Communist Party, through its members in the Committee and through other Party members, has supervised and advised the Committee in financial matters.

(c) At Communist Party meetings and at other times and places, members of the Party have been urged and instructed to support the activities of the Committee, and Committee publications [fol. 8] and tickets have been distributed.

(d) The Committee has received favorable publicity and support through the Communist Party press.

(e) The Communist Party has assigned its members to aid the Committee and Committee sponsored functions.

(3) From its inception up to and including the date of the filing of this petition the Committee has been and is operated for the purpose of giving aid and support to the Communist Party, and its funds, resources, and personnel have been used to further and promote the objectives of the Party. The following facts, among others, are illustrative of the above:

(a) The Committee was organized at the direction of the Communist Party to undertake as one of its major activities the defense and aid of members and former members of the Party involved in deportation proceedings.

(b) The Committee has conducted campaigns to promote legislation and other action favorable to the Communist Party and to the policies of the Party, and to defeat legislation opposed by the Party.

(c) The Committee has sponsored groups, organizations, meetings and rallies to aid the Communist Party and to promote the aims and objectives of the Party.

(4) From the inception of the Committee up to and including the date of the filing of this petition it never knowingly has deviated from the views and policies

advanced by the Communist Party. The Committee [fol. 9] has advocated and followed the views and policies of the Party in the following instances, among others:

(a) The Committee has supported the views and positions of the Communist Party in opposing the deportation of aliens who were members of the Party.

(b) The Committee actively supported the Communist Party in its efforts on behalf of Gerhardt Eisler, the Communist International Representative who was convicted under Federal criminal law.

(c) The Committee supported the views, policies and objectives of the Communist Party by opposing the enactment of certain legislation regarded by the Party as inimical to its interests such as the Mundt-Nixon Bill, the Hobbs Bill, and the Internal Security Act of 1950.

(d) The Committee has consistently supported the views and policies of the Communist Party toward the Committee on Un-American Activities of the United States House of Representatives.

Respectfully submitted,

Herbert Brownell, Jr., Attorney General; Warren Olney III, Assistant Attorney General; William E. Foley, Harold D. Koffsky, David B. Irons, [fol. 10] John J. Wachter, Attorneys, Department of Justice.

Duly sworn to by Herbert Brownell, Jr., jurat omitted in printing.

[fol. 11]

BEFORE THE SUBVERSIVE ACTIVITIES CONTROL BOARD

ANSWER—Filed October 30, 1953

Answering the amended Petition, the Respondent, by its Co-Chairman, states:

First Defense

The registration provisions of the Internal Security Act of 1950, on their face and as attempted to be applied to Respondent, violate the Constitution of the United States.

Second Defense

Respondent reasserts, and incorporates herein, all the grounds asserted in Respondent's Motion to Dismiss the Petition and Motions to Strike.

Third Defense

A.

1. The allegations of the first (unnumbered) three paragraphs of the Petition are denied, except that Respondent admits that it did not file a registration statement with the Attorney General, for the reason that it is not a Communist-front organization and is not required to file such a statement.

2. Further answering such allegations, Respondent states that it is not a "Communist-front organization"; that it is not directed, controlled, or dominated by, or a "front" for, any other organization; that it sets its own policies and makes its own decisions, and is self-governed.

3. Further answering such allegations, Respondent states that its purpose, work and character are as set forth in Article II of its Constitution, which provides:

[fol. 12] *Purpose*

> The purpose of the American Committee shall be to perpetuate for the foreign born the fundamental American concepts of equality, regardless of race,

color, nationality, creed, or place of birth, and to preserve the fundamental ideals of liberty and hospitality which serve as the guarantees of democracy to all Americans.

The work of the American Committee shall be to promote better relations and understanding between native and foreign-born by means of education; to encourage and facilitate the naturalization of non-citizens; to prevent discrimination against non-citizens or foreign-born citizens because of their nationality, political, economic or religious belief, or lack of citizenship; to prevent the destruction of American families by the threat of deportation; to maintain the traditional right of asylum for political and religious refugees in the United States and to actively work for the solution of the problems confronting the foreign born in the United States.

The American Committee shall be an unaffiliated, non-membership, independent, non-partisan body cooperating with all other organizations interested in any phases of its program.

The aims, purposes, and activities of the Respondent are in the best interests of the United States and in accordance with the finest democratic American traditions.

4. Further answering such allegations, Respondent states that its affairs are governed in accordance with Article III of its Constitution, which provides:

Structure and Officers

The ultimate authority of the American Committee shall be the Annual Conference. The Annual Conference will delegate full responsibility to those individuals and bodies which, in its mature judgment, are best capable of carrying out the program, decisions and authority of the Annual Conference.

The Officers of the American Committee shall be: Honorary Co-Chairmen, Co-Chairmen, and Treasurer, elected annually by the Annual Conference.

The Administrative Officer responsible to the Annual Conference for the work and activities of the American Committee in between the Annual Conference shall be [fol. 13] the Executive Secretary. The Executive Secretary shall be elected annually by the Annual Conference.

B.

The allegations of section I of the Petition are denied, except that Respondent admits the following: (a) Respondent was formed in or about 1933 and has existed in the United States ever since; (b) Respondent has its office in New York City, and it functions therefrom; (c) Respondent prepares and distributes the periodical "The Lamp", and the occasional publication "Review of the Year."

C.

1. Respondent is without knowledge of the matters alleged in section II of the Petition, except that the Respondent is aware of the well-known, public facts that there is in existence an organization known as the Communist Party of the United States of America and that the Board ordered it to register as a Communist-action organization. Such order of the Board, as is also publicly known, is under judicial review and is not final, and for that reason alone, the Board has no authority to entertain the Petition herein.

2. As to all matters as to which Respondent states it is without knowledge, it does so in accordance with section 201.7 of the Board's Rules, which provide that such a statement in the answer "shall operate as a denial."

D.

Answering section III of the Petition:

1. The allegations of the (unnumbered) first two sentences of the section are denied. Further, Respondent refers to and reasserts Paragraphs A.2, 3, and 4 of this Answer.

2. The allegations of the second sentence of the (unlet- [fol. 14] tered) text following (1) of the section are denied.

Respondent is without knowledge of the matters alleged in the first sentence of such text. It further states, in answer to these latter allegations, and other allegations in the Petition as to the political affiliations or beliefs of individuals allegedly active in Respondent, that Respondent does not, and it would be contrary to its principles to, pry into such matters.

3. Respondent is without knnowledge of the matters alleged in (1)(a) of the section, and it further refers to the preceding sentence of this Answer.

4. Respondent is without knowledge of the matters alleged in (1)(b) of the section.

5. The allegations of (1)(c) are denied.

6. Respondent is without knowledge of the allegations of (1)(d) of the section.

7. Further answering the allegations of (1)(a), (b) and (d), Respondent states that it cannot be expected to have knowledge of what other organizations may say about it, and Respondent refers to paragraphs A.2 and A.4 of this answer.

8. Respondent is without knowledge of the matters alleged in the (unlettered) text following (2) of the section down to (a). Respondent further states that it accepts the support of all organizations and persons that choose to support Respondent and its activities, but that Respondent does not in any way thereby surrender its independence or subject itself to the control or direction of those contributing support.

9. Respondent is without knowledge of the matters alleged in (2)(a), (b), (c), (d), and (e) of the section. Respondent further refers to the second sentence of the preceding paragraph of this answer. Respondent also states [fol. 15] that it has received the support of numerous organizations, publications, and individuals, undoubtedly of various political affiliations and views, who are interested in Respondent's contributions to the cause of American democracy.

10. The allegations of the (unlettered) text following (3) down to (a) are denied.

11. The allegations of (3)(a) of the section are denied.

12. Answering (3)(b) of the section, Respondent states that it has conducted campaigns favorable to certain legislation and to defeat other legislation. These campaigns were conducted to promote the policies of the Respondent and not to promote the policies of any other organization. Respondent is without knowledge as to whether the legislation involved in such campaigns was favorable to the Communist Party and its policies. Respondent believes, on the basis of matters which are of public record, that the Communist Party has opposed some legislation opposed by Respondent. So have numerous other organizations and individuals, undoubtedly of various political affiliations, including non-Communist and anti-Communist.

13. The allegations of (3)(c) of the section are denied.

14. Respondent denies the allegations of the (unlettered) text which follows (4) of the section down to (a). Respondent further asserts that its views and policies are and were established by it independently and on their merits, and do not and did not "follow" or "not deviate from" the views and policies of any other organization, although it is undoubtedly true that many other organizations and many individuals have from time to time expressed views and policies on various matters similar to those of Respondent.

15. The allegations of (4)(a) of the section are denied. [fol. 16] Respondent asserts that, in accordance with its own principles and views and in the best interests of the American people, it has opposed the deportation of non-citizens on account of political beliefs or affiliations. Respondent does not defend the political views of particular persons, but it does defend the right of non-citizens to hold dissenting political views. Respondent asserts that many other organizations and individuals, undoubtedly of various political beliefs and affiliations, have likewise opposed political deportations, which are a disgrace to American democracy.

16. The allegations of (4)(b) of the section are denied. Respondent asserts that, in fulfillment of its own policies, it gave assistance to Gerhart Eisler in relation to the deportation proceeding against him and in efforts to secure bail pending such proceeding, because he was a foreign-born individual who was being persecuted.

17. The allegations of (4)(c) of the section are denied. Respondent further asserts that in fulfillment of its own policies it opposed the "anti-alien" provisions of the Mundt-Nixon bill, the Hobbs bill, and the Internal Security Act of 1950.

18. The allegations of (4)(d) of the section are denied.

American Committee for Protection of Foreign Born,
By Louise Pettibone Smith, Co-Chairman.

[fol. 17] *Duly sworn to by Louise Pettibone Smith, jurat omitted in printing.*

(See opposite) ☞

[fol. 22]

[fol. 21] [File endorsement omitted]

BEFORE THE
SUBVERSIVE ACTIVITIES CONTROL BOARD

Docket No. 109-53

WILLIAM P. ROGERS
ATTORNEY GENERAL OF THE UNITED STATES
PETITIONER

v.

AMERICAN COMMITTEE FOR PROTECTION
OF FOREIGN BORN

F. Kirk Maddrix and Malcolm F. Knight for petitioner during the original hearing, and James Lee Weldon, Jr. and Joseph M. Wysolmerski during reopened hearings. Oran H. Waterman and Anthony F. Cafferky also entered appearances for petitioner.

Joseph Forer for respondent

REPORT AND ORDER OF THE BOARD—Decided June 27, 1960

[fol. 24]

PRELIMINARY STATEMENT

This is a proceeding initiated by a petition of the Attorney General of the United States for an order of the Board determining that the American Committee for Protection of Foreign Born, respondent, herein sometimes referred to as the "American Committee" or "American", is a Communist-front organization within the meaning of section 3 of the Subversive Activities Control Act of 1950 and as such must register pursuant to section 7 of that Act.

The Board has earlier determined the Communist Party of the United States [hereinafter sometimes referred to as the "Communist Party" or "Party"] to be a Communist-action organization within section 3 of the Act.[1] The substance of the petition herein is that respondent is a Communist-front organization by reason of its being directed, dominated or controlled by the Communist Party (a Communist-action organization) and primarily operated for the purpose of giving aid and support to such Party.[2] Respondent's answer to the petition denied that it is a Communist-front organization and denied that it is directed, dominated or controlled by any other organization.[3]

Hearings were held before a hearing examiner of the Board during which the Attorney General presented 18 witnesses and 281 exhibits, and respondent 9 witnesses and 237 exhibits. Proposed findings were submitted by both sides and the examiner issued a recommended decision, dated September 10, 1957, that the Board order respondent to register as a Communist-front organization.

Exceptions to the examiner's findings were filed by respondent and a memorandum in reply to the exceptions was filed by petitioner. While the

1 Report and Order of the Board, issued April 20, 1953; Modified Report of the Board, issued December 18, 1956; Modified Report of the Board on Second Remand, issued February 9, 1959. The determination has been affirmed by the United States Court of Appeals for the District of Columbia Circuit. See Communist Party v. Subversive Board, decided July 30, 1959, as yet unreported. The judgment of the Court of Appeals is presently pending review in the Supreme Court.

2 We reject respondent's contention, exception 10, that it cannot be bound by the Board's determination of the status of the Communist Party. If respondent was shown to hold the relationship to the Party alleged in the petition, then the determination of the Party's status is binding and conclusive.

3 No useful purpose would be served by detailing the petition and answer. Where appropriate, specific allegations are set forth in connection with our findings of fact.

[fol. 25]

Board had the case under advisement the United States Court of Appeals for the District of Columbia Circuit remanded to the Board for further proceedings the case in which the Board had determined the Communist Party to be a Communist-action organization. Because of that remand it was necessary to postpone further consideration of the instant proceeding until the completion of the Board's reevaluation of the Communist Party case.[1] On February 9, 1959, the Board issued its decision reaffirming the earlier determination that the Communist Party was a Communist-action organization.

This proceeding was then reactivated by notice of the Board issued on March 2, 1959. On July 16, 1959, the Board ordered petitioner to make available to respondent any prior statements in his possession relating to certain specific matters testified to by the witnesses Hardin, Czarnowski, Harper and Markward, or in the alternative to submit to the Board for its in camera determination any documents containing information relating to the testimony but which petitioner claimed were not producible under the so-called Jencks statute, 18 U.S.C. 3500.[2] The Board's order also required that petitioner afford respondent the opportunity to inspect documents in petitioner's possession which had been acquired by the witness Miller from the Los Angeles Committee but not offered in evidence.[3] Respondent on

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[1]The ultimate issue in this proceeding being respondent's alleged relationship to the Communist Party as a Communist-action organization, final determination by the Board of whether the Party was such an organization was a prerequisite to going forward with this proceeding.

[2]During the hearing before the examiner, respondent had laid a foundation and requested the production of reports made by these witnesses to the Federal Bureau of Investigation on specific subjects of their testimony. The examiner's denial of the requests was assigned as error in respondent's exception 1. The Court of Appeals on January 9, 1958, in CPUSA v. SACB, 254 F. 2d 314, held applicable to this Board's proceedings the principles of the then recent opinion of the Supreme Court in Jencks v. U.S., 353 U.S. 657, concerning the production of F.B.I. reports, and in an unreported memorandum having reference to its January decision, the Court of Appeals on April 11, 1958, recognized the so-called Jencks statute which had been enacted by the Congress following the Supreme Court opinion.

[3]Respondent's exception 4 to the recommended decision assigned as error the examiner's refusal to order these documents made available to respondent and the exception also assigned as error the receipt in evidence of petitioner's exhibits 70 and 71, introduced through the witness Miller. These exhibits have been stricken from the record by the Board's order of July 16, 1959. The documents ordered made available were turned over to respondent at a hearing held on September 21, 1959, and on September 25, 1959, counsel for respondent filed a memorandum stating "The respondent has no further request to make at this time with respect to the so-called Miller documents."

July 24, 1959, filed a motion to modify the reopening order of July 16, 1959, so as to require the production of many other documents. This was denied by the Board for the reasons set forth in a memorandum opinion issued September 14, 1959.

Reports of the witnesses Hardin and Harper were submitted by petitioner to the Board for the excision of irrelevant material and as so excised by the Board were turned over to respondent at a hearing held on September 21, 1959. Upon examination of the reports, respondent requested the recall of the witnesses for further cross-examination in the light thereof and a hearing for such purpose was held on November 12, 1959. We consider infra the various contentions resulting therefrom.

As to the witness Markward, petitioner submitted for the Board's in camera inspection an F. B. I. memorandum relating to information previously furnished by the witness on the particular subject matter of her testimony but petitioner took the position that the document was not producible to respondent. Thereafter petitioner also submitted an affidavit of the F. B. I. agent who had prepared the memorandum. Counsel for respondent was heard on the sufficiency of the affidavit. The Board determined that the document did not qualify for production under 18 U. S. C. 3500. The document and the agent's affidavit have been made a part of the record, sealed, as Board exhibit 1.

Another issue on Markward's credibility was raised by respondent. After the hearing before the examiner had closed, respondent filed on December 26, 1956, a written motion and accompanying affidavit to reopen the proceeding to present evidence and further cross-examine Markward to show that "Markward committed perjury in her testimony in the Blumberg case [United States v. Dr. Alfred Blumberg, D. C. E. D. Pa., Cr. No. 17963] about Dr. Blumberg's alleged remarks at the June 10, 1945, meeting and about what Payne taught in a 1949 class."[1] Respondent contended in exception 3 that the examiner erred in denying the motion.

The motion sought to make a collateral attack upon Markward's general credibility since the subject matters of her testimony in this proceeding did not include and were not related to either Blumberg or any remarks he made at any meeting, or about Payne or anything he taught in any class, and neither of these persons nor the events were issues in this proceeding. The motion thus went far beyond attempting to show prior inconsistent statements of the witness.

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1 Respondent also asserted that in an earlier case of United States v. Frankfeld, D. C. Md., Cr. No. 22322, Markward made no reference to Blumberg's remarks at the 1945 meeting although she testified that two of the defendants in Frankfeld were present at the meeting where Blumberg spoke.

[fol. 27]

Moreover, Markward appeared as a witness in the Board's proceeding involving the Communist Party and, having testified therein on matters touching upon some aspects of her earlier testimony in the Blumberg case, the Board admitted into evidence proffered portions of the Blumberg trial. The Board also considered certain other material going to the credibility of Markward.[1] The examiner took official notice from the record in the Communist Party proceeding of Markward's testimony in the Blumberg case and concluded there was no warrant in recalling her for further cross-examination. Counsel for respondent here was counsel for the Communist Party in that proceeding.

By officially noticing, as we do, all of the credibility items concerning Markward as they appear in the record of the Communist Party proceeding, including her testimony in Blumberg, respondent is given more than would be available for consideration had its motion to produce the Blumberg testimony alone been granted. Markward's testimony in this proceeding was limited and the effect of her entire testimony upon our ultimate conclusion herein is not of major importance. The only findings of fact of any significance based upon her testimony were unrebutted, not denied and not affected by the cross-examination, and the testimony from which the findings are made is credited.

Petitioner elected not to produce the reports ordered by the Board in connection with the testimony of the witness Czarnowski. In view thereof respondent moved that the proceeding be dismissed or in the alternative that all the testimony of the witness be stricken. The alternative motion was granted and the Board's order, issued September 14, 1959, struck from the record all of Czarnowski's testimony. Thereafter both sides were heard on the status of the exhibits introduced through the witness. Pursuant to stipulation and agreement, certain of the exhibits, not depending upon the witness for their authentication, remain in the record. The Board's order issued September 30, 1959, struck from the record petitioner's exhibits 38, 39, 40, 41, 42, 44, 45, 47, and 52, and respondent's exhibits 50, 51, 52, 53, 54, 55, 56, 57, 58, and 59.

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[1] See "Modified Report of the Board on Second Remand," issued February 9, 1959, in Attorney General v. Communist Party, U.S.A., Board Docket No. 51-101, pages 2-9; and "Modified Report of the Board," issued December 18, 1956, in the same proceeding, pages 3 & 4. It will be seen that subsequent to the filing of respondent's exceptions in the instant proceeding the Board has carefully and fully considered not only Markward's testimony in Blumberg but a number of other items going to her credibility, and has considered the cumulative effect of all of the credibility issues.

[fol. 28]

On February 11, 1960, oral argument was heard on the sufficiency of the evidence on the record, including what had transpired since the recommended decision. Counsel for both sides asked that we regard the February 11 argument as supplemental to the oral argument on exceptions that was presented December 7, 1957. We have read and considered the entire record including the earlier arguments. The exceptions and arguments not specifically or by implication dealt with herein have been considered and rejected as not justified or necessary for discussion. A list of the witnesses for each side is attached hereto as an appendix and includes pertinent background information. The factors applicable to the general evaluation of the witnesses, such as possible interest, have been taken into consideration and the testimony weighed and scrutinized as such considerations indicate.

Respondent has contended in substance that the First Amendment and the due process clause are violated by finding "guilt under the Act" from its constitutionally protected activities in defending Communists or persons accused of having been Communists, and by relying upon its views and policies as nondeviation items. See respondent's exceptions 48 and 57. The reasoning of the Court of Appeals in finding no merit to similar assertions in Communist Party, U.S.A. v. Subversive Activities Control Board is applicable here. See 223 F.2d 531, 544-46, 560, 561. Moreover, as we spell out in more detail under the "FINDINGS OF FACT," infra, respondent's policies and activities are examined not for objective validity but rather in the process of determining whether the fact of nondeviation, and the elements of a Communist-front organization are present.

FINDINGS OF FACT

Respondent is an organization which has existed in the United States since in or about 1932 or 1933. Its main office or headquarters is in New York City. The activities of the organization have centered around the foreign born with considerable effort and attention given to the legal and propaganda defense of individuals involved in deportation and denaturalization cases. (Infra.) A substantial number of those defended and in whose behalf respondent has worked have been members of the Communist Party and individuals accused of being Party members. (Infra.)

Anyone charged in deportation or denaturalization proceedings is entitled to be defended, and anyone or any organization may devote efforts to such defense. This is not to say, however, that an organization engaged in these activities, which include as respondents do obtaining contributions of money and other support from the public (see infra), may not be required to register and make the disclosures covered by the Act if the

[fol. 29]

activities have been carried out under circumstances and for purposes which make the organization a "Communist-front organization" as defined in the Act.

In this proceeding, the issues under the Attorney General's petition are, as stated supra, whether respondent's activities have been carried out under circumstances constituting in effect direction and control by the Communist Party of the United States, and whether the purposes for which the activities have been carried out had the primary aims and objectives of aiding and supporting the Communist Party.

Before considering the evidence and making our determinations of these issues, it is pertinent to resolve the subsidiary issue of whether so-called area or local committees for the protection of the foreign born are branches or chapters of respondent so as to constitute one organization within the meaning of the Act.

Area or Local Committees

The petition of the Attorney General alleged that the American Committee for Protection of Foreign Born "functions through its national office in New York City and through affiliated branches and chapters throughout the United States." (Amended Petition, p. 2.) In support of this allegation, petitioner presented evidence on various groups sometimes referred to in the record as "area" or "local committees," more specifically on: the Los Angeles Committee for Protection of Foreign Born, the Michigan Committee for Protection of Foreign Born, the Midwest Committee for Protection of Foreign Born, the New England Committee for Protection of Foreign Born, the Northwest Committee for Protection of Foreign Born (which appears prior to the time of the hearing to have changed its name to Washington State Committee for Protection of Foreign Born), and the Western Pennsylvania Committee for Protection of Foreign Born.[1]

Respondent denied this allegation of the petition and presented evidence from which it was argued that the area or local committees are independent, that the American Committee has no control over them, and that the American Committee cannot be held responsible for the area committees, and vice-versa. Respondent's witnesses, particularly the executive secretary, Abner Green, acknowledged the existence of the above named committees as well as of a Northern California Committee for Protection of Foreign Born, a Minnesota Committee for Protection of Foreign Born, a Philadelphia Committee to Defend Foreign Born, and a Committee to Protect Oregon's Foreign

[1] Petitioner's principal witness on the Midwest Committee was Czarnowski whose testimony has been stricken. (See supra.) There remain in the record as to the Midwest Committee certain exhibits and the testimony of some of respondent's witnesses.

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Born. There is no evidence, other than incidental reference at the most, to three of these four last named committees.

Documentary evidence in the form of official publications of the American Committee and of various of the so-called area or local committees established a continuous and consistent pattern of authoritative references to the American Committee as the national office or national organization, and the area or local committees as "part of" and "affiliated to" the American Committee. We set forth below some examples, applicable to the American Committee, Northwest, Midwest, and Los Angeles committees.

The Lamp, a periodical admittedly published and distributed by the American Committee and its official organ, reported in the issue for August 1949, that there had been "established a Northwest Committee for Protection of Foreign Born as a part of the ACPFB." (Resp. Ex. 151, p. 4, emphasis added.) An undated brochure or pamphlet issued by the Northwest Committee described itself as "Affiliated to the American Committee for Protection of Foreign Born" and listed names of officers and sponsors of the American Committee preceding a list of the names of officers and sponsors of the Northwest Committee. (A.G. Ex. 34.)

The issue of The Lamp for September-October 1948, under the heading "Work and Activities of American Committee" and the subheading "Organization," related that:

> "The National Office of the American Committee is located in New York City. A Midwestern Office is maintained in Chicago, serving the foreign born in Illinois, Indiana, and Wisconsin." (A.G. Ex. 198.).

A brochure or pamphlet issued by the Midwest Committee announcing its formation in 1947, stated:

> "The Mid-West Committee functions as a part of a national organization, the American Committee for Protection of Foreign Born, which has served the American people for the past 14 years." (A.G. Ex. 256.)

This same pamphlet of the Midwest Committee contained an appeal for contributions of money and stated that annual contributors would receive The Lamp and other material regularly. (As set forth, supra, The Lamp is the official organ published by the American Committee.)

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The Los Angeles Committee was reorganized as the result of a conference held in Los Angeles in October of 1950, and a report issued by the Committee stated:

> "The Committee shall be affiliated to the national organization known as the American Committee for Protection of Foreign Born, for purposes of mutual support, exchange of information, and co-ordination of activities pertinent to the Committee's aims." (A.G. Ex. 54, p. 2.)

Petitioner's evidence on the policies and activities of the American Committee and of the various area or local committees demonstrated that in actual practice an association existed of the very nature held out to exist in the official publications. This evidence showed that the policies, programs and aims are identical; that the American Committee and the local committees work together and exchange literature and correspondence; that the American Committee and the local committees have a number of dual officers and the persons primarily active in and responsible for the management and direction are members of the Communist Party; and that the American Committee, especially through its executive secretary, Abner Green, had been active in the formation and organization of the local committees. (See infra.)

The identical nature of the policies, programs and aims is revealed from our findings, infra. One aspect not readily apparent therefrom is that the tenor of the official publications of the American Committee has been the nationwide scope of its activities and deportation cases handled by the area committees have been treated as part of its activities by the American Committee.[1] Examples of the latter were: the cases of Joe Weber, Refugio Ramon Martinez, and James MacKay handled by the Midwest Committee; the Mexican deportees and a group referred to as the Terminal Island Four handled by the Los Angeles Committee; and the Giacomo Quattrone-Ponzi case handled by the New England Committee.

The evidence showing that the American Committee and the area committees worked together and exchanged material, and the evidence that American has been active in such things as the formation of the area committees is overlapping. Illustrations of the facts in these respects as they were established by the evidence are set forth in the following paragraphs.

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[1] The American Committee has from time to time listed various organizations which the Committee said aided or supported the American Committee and its campaigns. In no instance of record were the area or local committees so listed, indicating that they were considered more than supporting groups.

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Abner Green, executive secretary of "American," was the principal speaker at a meeting called to form the New England Committee, and Green stated at the time that the American Committee would work together with the New England Committee and assist it in every manner.

Green visited Los Angeles and discussed with the executive secretary of the Los Angeles Committee the plans for reorganization of that area committee. Petitioner's witness Miller, who had been Secretary of the Executive Board of the Los Angeles Committee, showed that Green acted as coordinator of all area committees; that at Green's request all Los Angeles Committee literature was sent to the American Committee so Green could be kept informed at all times as to what was being done by the Los Angeles Committee; and, that Green kept in close touch with the activities of the Los Angeles Committee.

In 1953, Abner Green met with top officials of the Communist Party in the Northwest United States and stated that he was satisfied with the progress of the Northwest Committee and was pleased with the response at meetings and conferences that were being held around his visit there.

The September-October 1948 issue of The Lamp, supra, announced that the Midwest Committee was moving its office to 431 South Dearborn Street in Chicago, and that that office would also serve as the local headquarters for the American Committee's 15th Anniversary National Conference. (A.G. Ex. 198.) Green served as chairman of one of the sessions of a conference sponsored by the Midwest Committee in Chicago in March 1951.

The remaining consideration in connection with petitioner's evidence on the relationship between the American Committee and the area committees concerns the officers and persons active in the management and direction of the various groups. Our findings, infra, under the heading "Respondent's Management, Direction and Supervision" showing the important roles played by members and functionaries of the Communist Party are relevant to the matter of the relationship between American and the area Committees. In addition, the record shows that a number of individuals who held office in the area committees or were sponsors, were at the same time officers or sponsors of the American Committee.

Illustrative of the latter, and limited to the time of the hearing, the record shows that: Anton Julius Carlson was a sponsor of the American Committee and co-chairman of the Midwest Committee; Pearl M. Hart was a vice-chairman and director of American and Chairman of Midwest; Reverend Charles A. Hill was a sponsor and a director of American and co-chairman of Michigan;

[fol. 33]

Louise Pettibone Smith was former chairman, present honorary chairman of American and honorary chairman of New England; Mildred Treffman was a director of American and executive secretary of the Midwest; and, Lenus Westman was a director of American and executive secretary of the Northwest Committee.

Petitioner put in evidence a Constitution of the American Committee which provided in Article III for the organization of "sub-Committees of the American Committee, both regional and in the different language fields, to function in accordance with the program of the American Committee." (A.G. Ex. 160.) Respondent put in evidence a Constitution reflecting changes made in 1950 or 1951, which did not contain the foregoing, and provided, in part, that:

> "The American Committee shall be an unaffiliated, non-membership, independent, non-partisan body cooperating with all other organizations interested in any phases of its program." (Resp. Ex. 88.)

Respondent relies upon this provision and the testimony of the witnesses, particularly Abner Green, in arguing that the area committees are not associated with or a part of the American Committee. We find the attempted denials of affiliation are not convincing.

When asked on direct examination whether the American Committee had any affiliated branches or chapters, Abner Green qualified his answer by replying "not to my understanding of the term 'affiliated branches or chapters.'" (Tr. 5121.) His explanation of a reference in the American Committee's own publication, The Lamp, to the Midwest Committee as the Mid-West Office of the American Committee, was that the reference was "by inadvertence." (Tr. 5151.) His explanation of the statement in The Lamp that the Northwest Committee was "a part of" the American Committee (Resp. Ex. 151, supra) was "That was simply a formulation and use of language which didn't square with the facts as they were at the time or the organizational setup that existed at the time." (Tr. 5184.) His explanation on cross-examination, of the Northwest Committee's reference to itself as affiliated to the American Committee (supra) was that he wrote to the Committee that they had no right or authorization to indicate that they were affiliated with the American Committee. Green placed this as probably in 1949, said he did not think he had a copy of the letter, and his impression was that he did not consult with the board of directors in connection with it. We note in this connection that a publication of the American Committee called "Review of the Year 1950" (A.G. Ex. 25) contained the following at page 4:

[fol. 34]

"American Committee for Protection of Foreign Born
NATIONAL OFFICE:
23 West 26th Street
New York, 10, N. Y.

MIDWEST:
431 S. Dearborn St., Room 317
Chicago 5, Illinois

NORTHWEST:
300 Mutual Life Building
Seattle, 4, Washington

SOUTHERN CALIFORNIA:
326 West Third St., Room 311
Los Angeles, 13, California"

The addresses given are those which the record shows were also addresses of area committees here involved.[1] This indicates that even after the Northwest Committee had officially proclaimed its affiliation to the American Committee, and after the date when Green said he wrote the letter, the American Committee itself continued to recognize the Northwest Committee as the American Committee's Northwest Office.

Green and Smith, and to an extent the other witnesses for respondent, testified on direct examination that the American Committee does not choose the officers or the governing bodies of the local committees, does not claim or assert any power to direct or control any one of the local committees, does not finance the local committees, and does not tell the local committees what to do with their funds. On direct examination, Green testified that it is true that American and the locals work and consult together and that in "different ways" the American Committee has taken the initiative in getting the local committees established. (Tr. 5138.) Smith testified to a "good deal of cooperation" among the locals and between the locals and the national. (Tr. 4132.

Also on direct examination, Green answered "Yes" to the question whether before Pearl Harbor there were groups considered as branches or chapters or parts of the American Committee but that in 1943 there were "None that I can recall." (Tr. 5127.) On cross-examination he was asked whether in 1949, under the constitution then in effect which was also in effect before Pearl Harbor, it was possible for an organization to affiliate with the

1 The record indicates that at the particular time some or all of the other then existing area committees did not have offices; e.g., Professor Smith's testimony that the New England Committee before 1954, operated out of the home of Ruth Hillsgrove.

[fol. 35]

American Committee. He replied "It was possible under the constitution but not possible in any concrete or real manner." (Tr. 6792.)

Regarding the change in the constitution, Green testified on direct examination that the revision had no effect on the relationship between the American Committee and the local committees existing at the time of the revision.

Respondent's witnesses Carlson, Hill, and McArthur also testified that the locals are independent. We note, however, that this testimony was not unequivocal. Carlson said that basically the problems, plans, and scopes of Midwest and American are identical. Hill said that Michigan and American are "kindred" organizations which cooperate but are autonomous. McArthur referred to the American Committee as the "national organization" and said the locals "parallel the function of the American Committee." (Tr. 5563.)

Respondent's witness Reverend Moulton testified on direct examination that there were a number of "branches" of the American Committee in this country. On cross-examination he said there was one in the Northwest, one in Los Angeles, one in the Midwest, one in New England, and one in the South. On redirect examination, he stated as to the relationship between the American Committee and the local committees: ". . . I think they are children of the parent organization." (Tr. 7067.)

The American Committee and the area committees are not incorporated. The fact that the area committees have their own officers and other indicia of day to day autonomy is not inconsistent with their being associated with the American Committee. Such characteristics are commonplace in organizations consisting of a national body and affiliated branches or chapters. We find on the entire record that the American Committee and the various area or local committees are associated together for joint action on particular subjects. Together they constitute a voluntary association and one organization within the meaning of the term "organization" set forth in section 3(2) of the statute.[1]

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[1] Section 3(2) provides: "The term 'organization' means an organization, corporation, company, partnership, association, trust, foundation, or fund; and includes a group of persons, whether or not incorporated, permanently or temporarily associated together for joint action on any subject or subjects."

Respondent's Direction, Management and Supervision

Considerable evidence was presented by petitioner on the issue of the extent to which persons active in the management, direction, or supervision of respondent, including the local branches, have been active in the management, direction, supervision, or as representatives of, the Communist Party. (Section 13(f)(1) of the Act.)

The record is clear, and we find, that Abner Green, who appeared as a witness for respondent, had been for a number of years, and at the time of the hearing was, the top functionary of the national organization and the most influential official in respondent's management and direction. It is unnecessary to detail here the many facts, established by oral and documentary evidence of both parties, showing Green's importance. He became associated with respondent in 1935, became executive secretary in late 1941, and had held that position continuously up to and including the date of the hearing. Green has been primarily responsible for the work and activities of the organization, he has travelled extensively throughout the country on respondent's business; and, he has compiled respondent's official publication, The Lamp.

Petitioner's witness Lautner, who had been a responsible Communist Party functionary for about twenty years up to early 1950, testified without contradiction or denial by Green, and we find,[1] that Abner Green attended Communist Party meetings; that Green attended the 1948 national convention of the Party; and that, although the 1948 convention was the last meeting at which Lautner recalls seeing Green, Lautner saw him in the Communist Party building on numerous occasions after 1948. A copy of the Communist Party official organ, the Daily Worker, issue for September 7, 1938, named Abner Green as one of four members of the Communist Party participating in a Party sponsored radio broadcast. (A.G. Ex. 168.) An article in the Party's official

[1] There is no basis for finding, as counsel for respondent contends we should, that Lautner's testimony is unreliable. We likewise reject respondent's contention that all of Lautner's testimony should be stricken because on cross-examination when asked where he lived, he replied ". . . Department of Justice Building, Room 3266, Washington, D.C." but declined to state his residence address unless given "guarantees as to my personal safety" because of threats upon his life by "Communist Party underground characters." (Tr. 1083-1084, 1835.) Lautner's direct testimony covered 100 pages of the transcript and he was cross-examined for 283 pages. We see no basis for contending that the absence of Lautner's residence address in any way impaired cross-examination. Respondent developed that at the time of testifying Lautner was a paid employee of petitioner and the cross-examination shows that respondent's counsel was adequately informed as to Lautner's background, environment and activities.

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organ, Political Affairs, for February 1951, referred to "the Committee for the Protection of the Foreign Born, led by the devoted and indefatigable Abner Green. . . ." (A. G. Ex. 229.)

Green in testifying as a witness for respondent in this proceeding did not deny that he was or had been a member of the Communist Party.[1] On cross-examination he refused to answer, on grounds including the Fifth Amendment privilege against self-incrimination, the question whether during his time with respondent he was ever a member of the Communist Party.

Lautner in addition to the above, also testified that in early 1942, as best as he could recall the date, he and another party functionary, Avro Landy, were designated by the Communist Party governing committee to make a decision involving a dispute in the American Committee for Protection of Foreign Born between Abner Green and one Irving Novick, whom Lautner described as its "leader" at the time; that both Green and Novick were Party members and subject to Party discipline and decisions; that Lautner and Landy had Green and Novick appear before them at the national headquarters of the Communist Party to express their respective sides of the dispute; that the decision was that there was a bad working relationship between the two and Novick should be removed and Green put in as "head" of the American Committee; and, that as a result of the decision, Abner Green, whom Lautner identified at counsel table, was made the head. (Tr. 991-996.)

1 Petitioner's witness Hardin testified that he attended a closed meeting of the Communist Party with Green in Johnstown, Pennsylvania, in 1949, and another party meeting in Pittsburgh, also in 1949, at which Green was present. Green contradicted Hardin as to both meetings. He testified that while he did attend a meeting in Johnstown in 1949, it was a meeting of the American Slav Congress and that he was in New York City at the time fixed by Hardin's testimony as to when the meeting in Pittsburgh took place. At the reopened hearing it developed that Hardin, serving as an informant for the F. B. I. at the time, had not reported on any Communist Party meeting in Pittsburgh in late 1949, at which Green was present. It also developed that meetings Hardin had characterized in his testimony as being the Nationality Committee of the Communist Party were referred to in his F. B. I. reports merely as the "Nationality Picnic" and the "Nationality Group." (Resp. Exs. 277 and 278.) We have fully reviewed all of Hardin's testimony and have ruled that there is no indication he was lying. (Rulings of the Board issued January 14, 1960.) On the other hand, there is sufficient doubt whether the Johnstown and Pittsburgh meetings about which he testified were formal Party meetings and we have not considered them in deciding that Abner Green was shown to be a Party member.

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In attempted contradiction, Green testified that he succeeded one Curt Swinburne as executive secretary, actually assuming the duties sometime in October or November 1941 and being formally elected to the post by the Board of Directors on December 29, 1941, as reflected in the minutes which were received in evidence; and that Novick, who never had been executive secretary, left respondent regretfully because he had to earn a better living for his family. On cross-examination, Green while denying he met with Lautner and Landy and Novick in 1942, and (on redirect) in 1941, refused to answer on Fifth Amendment grounds a number of questions designed to explore the matter.

The fact that Green succeeded Swinburne as executive secretary is not necessarily inconsistent with Lautner's testimony. There is no basis for assuming that Lautner meant that Novick was the executive secretary at the time. The record shows that Novick had been one of the early functionaries of respondent and no evidence contradicts Lautner's description of him as the "leader." Moreover, the undisputed facts are that Novick left and Green, in becoming executive secretary, developed into the factual head of the organization. Under all of the circumstances, we do not consider Lautner's possible error in the date to be material and we credit the substance of his testimony. To the extent that Green's testimony is contradictory, it is not credited.

Petitioner's witness Hartle, who held high leadership positions in the Communist Party in the Party's Northwest District, testified, without contradiction or denial, and we find, that Henry Huff, chairman of the Party District at the time, reported to a meeting of the District Board in the period between 1948-1950 that he had met with Abner Green and Marion Kinney (see infra) on the occasion of a visit that Green made to the Seattle District as national head of the American Committee. In addition to this reported meeting of Green with a high Communist Party leader, Hartle also established that she met Abner Green in 1953 when Green was present at a luncheon meeting of the defendants in a Smith Act trial in Seattle; that there were present at this meeting Henry Huff, chairman of the Party District Committee and a co-defendant with Hartle in the Smith Act trial, Paul Bowen, a member of the Party District Committee and also a co-defendant, and John Daschbach and Terry Pettus, likewise District Committee members and co-defendants; and, that Green talked at this meeting with Henry Huff about the work of the American Committee and of the progress, with which Green was pleased, of the Northwest Committee for Protection of Foreign Born in the Seattle area.

These facts as established by Hartle are consistent with Green being a member of the Party and tend to corroborate Lautner's testimony that Green became leader of respondent by decision of the Communist Party and served therein as a representative of the Party.

[fol. 39]

We find that Green was a member of the Communist Party and became the leader of respondent by decision of the Communist Party, and we conclude that Green remained and was a member of the Communist Party at the time of the hearing.

The only other person shown, in recent years at least, to have been particularly active in the management of respondent on a national level was Harriet Barron. At the time of the hearing and for a number of years prior Harriet Barron held the title of administrative secretary. Respondent's witness Saltzman testified on direct examination that she had met other people in respondent's office "But Abner Green and Harriet Barron are the main people." (Tr. 4572.) Respondent's witness Professor Louise Pettibone Smith testified that Green and Barron carried on the organization's day-to-day activities.

Lautner testified without contradiction or denial, and we find, that he had Communist Party business with Harriet Barron; that he attended Communist Party meetings at which she was present in the 1930's and the 1940's; and, that in 1949 she visited him at his office at Party headquarters. From this and the entire record, we find that at the time of the hearing and for a number of years prior thereto Harriet Barron was a member of the Communist Party.

From 1948 until the position was abolished in 1952 the title and duties of naturalization aid director were held and carried out by Communist Party member Dorothy Strange. (See infra, page 26.)

We find that on the national level respondent at the time of the hearing was and for a number of years prior had been managed, directed, and supervised by Abner Green and Harriet Barron, both of whom were at the same time members of the Communist Party. From the fact that Green became the top leader of respondent at the direction of the Communist Party, and from other evidence of record, it is concluded that he has served as a representative of the Communist Party in operating respondent.

Respondent presented the testimony of two persons who at the time of the hearing were honorary co-chairmen of the organization, Professor (emeritus) Louise Pettibone Smith was co-chairman in the years 1952 and 1953, and an honorary co-chairman for each year thereafter. She was also honorary chairman of the New England Committee. Bishop Arthur W. Moulton (retired) had been an honorary chairman since about 1949. Smith and Moulton have each been a "sponsor" of respondent - Smith since about 1950 and Moulton since about 1945.

[fol. 40]

It is clear from the entire record as well as their own testimony that neither Smith nor Moulton has been at all active in the actual management, direction or supervision of respondent.[1] Therefore, their positions in the organization have no substantial relevancy to the precise issue of the extent that the organization is managed, supervised or directed by Communist Party functionaries or representatives. On the broader overall issue of whether the Communist Party dominates or directs respondent, both Smith and Moulton testified to the effect that they accepted their positions because of sympathy for the foreign born and a belief that respondent was working in the best interests of the foreign born and of the United States, and that they were elected to their positions (the inference sought to be made that the Communist Party had nothing to do with it, that no one put them on the list of sponsors or put them in as honorary officers.)

Yet, Moulton knows absolutely nothing, according to his testimony, about how he was selected and elected. On cross-examination it was developed that he was not a candidate for the office, and on being asked whether someone invited him to serve, he merely replied that "I was elected and accepted it." (Tr. 7052.) The first that he knew he was being considered for honorary co-chairmanship was when he was advised that he had been elected. He implied that he accepted the office "to help out and be nice" and testified that "I didn't ask any questions." (Tr. 7053.)

Smith also, according to her testimony merely "was asked to be a sponsor, and I accepted." (Tr. 3979.) She then decided to go to the annual conference in Chicago because "I wanted to know what I was sponsoring in more detail than I did know." (Tr. 3996.) When she sent word to the New York office that she was going to be in Chicago and would like to be at the conference, "someone" wrote and asked if she would speak and "they," she doesn't remember who, then wrote her a letter asking whether she would allow her name to be offered in nomination as a co-chairman, which she did. (Tr. 3997, 4001.) Smith was a sponsor of a Citizen's Emergency Committee formed for the specific purpose of defending 16 Communist Party officials on trial for violating a Federal criminal statute. At a meeting in Detroit, Michigan in December 1952, of the American Committee or the Michigan Committee for

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[1] Moulton has never attended any meetings or banquets of respondent and has never visited respondent's office. Smith had no desk at the office; she simply visited the office occasionally; and she did not know who performed the duties of naturalization aid director or general counsel. Her position as honorary chairman of the New England Committee "was really just a matter of giving my name" and she never worked for them. (Tr. 4193.) The record as to both Smith and Moulton bears out Moulton's observation that most of the work of any organization is "rather independent of honorary chairmen." (Tr. 7052.)

[fol. 41]

Protection of Foreign Born, at which Smith presided, one Nat Ganley, under indictment under the Smith Act, in giving a speech said that he was a Communist and proud to be a Communist, and Smith stated that America needs more loyal Communists like Mr. Ganley. Smith wrote a letter to Federal District Court Judge Medina, during the time he was presiding over the trial of top Communist Party leaders, to the effect that it was not to anybody's advantage to put a martyr halo around the Communist Party leaders. Smith believes that if the executive secretary of the Michigan Committee was a member of the Communist Party it makes no difference as long as "he did his job for us." (Tr. 4365.)

We find on this record that the fact that Smith and Moulton are honorary co-chairmen of respondent, and the fact that they have carried out a few activities in behalf of respondent's work in connection with the foreign born, are not necessarily inconsistent with respondent being dominated and controlled by the Communist Party and operated for Party purposes.

We now examine the evidence as to Communist Party affiliations of those persons active in the local branches of respondent. The record indicates, and respondent did not present any substantial evidence to the contrary, that the persons holding the positions of executive secretary in the branches have, like Green in the national organization, been primarily and principally active in the management, direction, and supervision of the work and activities on the branch level.

The executive secretary of the Northwest Committee Branch (Washington Committee for Protection of the Foreign Born) at the time of the hearing was Marion Kinney who assumed the office in 1953. Marion Kinney was identified as a member of the Communist Party and as having been assigned by the Communist Party in late 1948 or early 1949 to organize and get the Northwest Committee under way. Kinney met with Communist Party officials and received instructions from them on organizing this committee and reported her progress in the assigned task.[1] According to the testimony of Abner Green, one Kenneth Howard

[1] Petitioner's witnesses Barbara Hartle and Clark Harper both testified to the Party interest in organizing the Northwest Committee and to the assignment by the Party of Marion Kinney in that connection. The testimony of these two witnesses was unrebutted and undenied. We have considered the additional cross-examination of Harper on the basis of a statement given by him to the FBI on June 7, 1955 (Resp. Ex. 276) and find no basis for discrediting his testimony, particularly in view of the absence of contradictions, the lack of rebuttal or denial of his testimony, and the corroborative effect of Hartle's testimony. The fact that Harper's statement to the FBI was not as detailed as his subsequent testimony here, and the fact that the events as to which he testified were not the subject of earlier, contemporaneous reports to the FBI were explained by the witness.

was the first executive secretary of the committee and he was succeeded in 1949 by Lenus Westman. In 1951, Dr. H. J. Phillips succeeded Westman as executive secretary and Mabel Conrad became treasurer. H. J. Phillips and Mabel Conrad, as well as Marion Kinney, were identified on this record as members of the Communist Party.

The only persons shown on this record to have been active leaders of the Western Pennsylvania Committee were Evelyn Abelson and Bess Steinberg. Abelson became executive secretary when the Committee was organized in December 1953. She was executive secretary at the time and arranged a meeting for Professor Louise Pettibone Smith to speak during Smith's tour on behalf of respondent in early 1954. Meldahl received a written invitation to a meeting of the Western Pennsylvania Committee from Abelson in late 1955. Abelson and Steinberg were the people in the office and contacted by respondent's witness Peter Soldo in connection with deportation proceedings against his father as a former Communist Party member. Bess Steinberg was executive secretary at the time of the hearing.

Hardin testified without contradiction or rebuttal, and we find that he attended closed, policy-making meetings of the Communist Party with Bess Steinberg and that he saw her at 30 or 40 district conferences or district committee meetings of the Party. Hardin also testified, again without contradiction or denial, and we find that in 1951 Steve Nelson, chairman of the Communist Party District 5, told him to collect Communist Party dues and turn them over to Evelyn Abelson; that Nelson also stated that "When Abelson gives you orders, they will be orders from the Communist Party." (Tr. 344). Hardin actually collected Party dues at different times and turned the money over to Abelson. Prior to this, Hardin had seen and talked to Abelson at Communist Party meetings. Thus, the leadership of the Western Pennsylvania Committee has been by Communist Party members Abelson and Steinberg.

The only persons shown to have been active in the leadership of the New England Committee were Ruth Hillsgrove and Olive Sutton. Ruth Hillsgrove was executive secretary from 1952 until succeeded by Olive Sutton, who had been treasurer as late as February 1954. Hillsgrove was identified on this record as a member of the Communist Party.

While the record is not clear as to the date that the Michigan Committee was established, the evidence does show that early in its existence Saul Grossman was its executive secretary and was still an officer at the time of the hearing. Grossman was identified on the record as a member of the Communist Party. One Peggy Wellman was

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administrative secretary of the Committee at the time of the hearing and she too was identified as a member of the Communist Party.

The Los Angeles Committee had as its leader from 1949 to 1951, one Delphine Smith, identified on the record as a member of the Communist Party. Petitioner's witness Miller became recording secretary of the Los Angeles Committee in late 1950 (at the suggestion of the F. B. I.) and was later recruited into the Communist Party by one Morris Goodman, a functionary of the Committee, who approached the subject after a meeting of the Committee and told Miller that having seen how conscientiously she worked for the Committee, he thought she would be an asset to the Party.

A number of various publications issued by respondent and showing the names of national or local functionaries were received in evidence. In no instance was Abner Green or any of the other persons that the evidence showed were Communist Party members so identified in the publications. Green was the only one of the persons shown to have been active in managing respondent who appeared as a witness.

This record requires the conclusion that the effective management, direction, and supervision of the local branches of respondent are substantially and primarily performed by and are under the control of members and representatives of the Communist Party. In view of our findings supra as to the leadership of the national organization it follows that the entire organization (national and locals) is effectively under the management, direction and supervision, and controlled by members and representatives of the Communist Party.[1]

Organization and Purposes

The facts on the Communist nature of respondent's leadership and direction being established we consider next the evidence on the organization, aims and purposes of respondent, particularly as related to or connected with the programs and objectives of the Communist Party regarding the foreign born.

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[1] Further evidence establishing this appears from various of the facts found under subsequent subheadings, such as the facts showing that these Communist Party people who have been the leaders of the respondent have constantly and consistently formed and promulgated views and policies of respondent in line with and without deviation from the views and policies of the Communist Party on the particular subject matters involved. In reaching the conclusion on the management and control of respondent we have considered and reject respondent's contention that the organization has been controlled by the annual conferences. See infra pages 41 - 42.

[fol. 44]

The record shows that the Communist Party of the United States has had a continuing policy toward the foreign born. The aims and purposes of the Party have been: (a) to seek to prevent the denaturalization and deportation of officers and members of the Party, and (b) to win the goodwill of the foreign born and obtain from them adherents to and support for the Party and for Party programs. The record also shows that it was the policy of the Communist Party to carry out and advance these aims and purposes through and by an organization separate from and not a part of the Communist Party as such. Illustrations of the facts establishing these findings will now be set forth.

Evidencing a general policy to win the goodwill of the foreign born were the adoption at the ninth convention of the Party, in 1936, of a platform which included the plank that the "infamous policy of deportation of foreign-born workers must be stopped" (A. G. Ex. 7, p. 2); and the adoption by the Party in 1948 of a platform which called for ending "persecution and deportation of the foreign born" (A. G. Ex. 227, p. 941).

The purpose to win the foreign born to the Party and to win their support of Party aims and objectives was evidenced by a declaration made at the eighth convention, in 1934, that "the foreign born workers constitute a revolutionary factor of the utmost importance." (A. G. Ex. 1, p. 701.) Means were outlined for "drawing the foreign born workers into the main stream of the class struggle, into the Communist Party and the mass organizations, particularly the trade unions." (Ibid, p. 709.) The continuation of this purpose was evidenced and the role to be played by respondent was indicated, inter alia, by the testimony of petitioner's witnesses Hartle and Harper, both of whom held high offices in the Party's Northwestern United States organization at the time about which they testified.

Hartle showed that at meetings in 1948 and 1949 of the Communist Party Northwest District Committee and also of the Party District Board, there were discussions about forming a branch of the American Committee for Protection of Foreign Born, which branch was needed to defend Party members who were threatened with deportation, and in order to attract the support of a certain sector of the population to the Communist Party line who were interested in the problems of foreign born persons. Harper showed that in late 1948 or early 1949, at a meeting of the Party District Committee, Henry Huff, the Party's highest official in the northwest district, spoke at length on the need for setting up a branch of the American Committee in order to protect "our foreign born comrades" and to help build the Party. (Tr. 2977.)

In addition to showing the Party policies to win over the foreign born and to seek to prevent the deportation of Party officers and members, the

[fol. 45]

above is a part of the evidence showing that it has been the practice of the Party to carry out these policies through so-called non-Party, independent organizations. Other evidence of record sheds further light on the existence of such a practice. For instance, petitioner's witness Hacker established that in the early 1930's there existed in the United States an organization named International Labor Defense ("ILD"). It was the American section of the International Red Aid which had its headquarters in Moscow and which was the parent organization of the various Communist defense organizations. Final policy decisions in the ILD were made by a Communist fraction in the organization or by Robert Minor, a Party member. The functions and purposes of the ILD were to carry out mass and legal defense of persons who were arrested in connection with what was termed working class activities. This included supplying legal counsel, the organization of mass protest demonstrations, the circulation of petitions, and the raising of funds to carry on these activities. The ILD was also utilized for the recruitment of members into the Communist Party.

During the year 1932, as the result of a suggestion made by Robert Minor, a member of the Central (governing) Committee of the Communist Party and liaison man between the Party and ILD, there was set up a Council or Committee for Protection of Foreign Born to take over and relieve ILD of the technical work (legal defense, bail, etc.) in deportation cases with ILD continuing the activity of arranging and holding mass meetings in order to dramatize the cases. Of the deportation cases handled by ILD, about 80 per cent involved charges by the Immigration Service that the defendant was or had been a member of the Communist Party.

The continuation of the Party policy to carry out this work through a separate organization from the Party itself was evidenced, among other things, by an official Party statement in 1951 that:

> "Comrade Foster warned us at our 1948 Convention not to allow our Party to become a defense organization. He spoke wisely from the sum total of experience in this field. A separate permanent non-partisan organization devoted exclusively to this purpose is required." (A. G. Ex. 229, p. 126.)

We come then, against the background of Communist Party policies and objectives regarding the foreign born, including the defense of foreign born members of the Party itself, to consideration of respondent's organization and purpose.

Petitioner's witnesses Harper and Hartle showed that the need for the branch of respondent in the Northwest United States was the subject of

Communist Party business in late 1948 and early 1949. (Supra.) Other evidence corroborates their additional testimony that a branch was actually formed shortly after the Party plans for it were made. Marion Kinney, a Party functionary, was designated by the Party to organize the branch in the Northwest and to assume an office in it. Kinney was given instructions by Party officials on organizing the branch and after it got started she reported to the Party officials on her progress in the new organization. In 1951, Kinney was further relieved of her other Party duties in order to do more work in this Northwest Committee for Protection of Foreign Born. Kinney was the executive secretary of the commitees at the time of the hearing.

The evidence showed and we find that the Communist Party took the initiative in the formation and organization of the Northwest branch of respondent in order to have an organization to defend Party people subject to deportation and to win the support of the foreign born to Party programs and aims.

Petitioner's witness Baldwin, as part of her work in the Communist Party was assigned by her Party section and attended as its representative, a national conference of the American Committee held in Detroit, Michigan, in the winter of 1949.[1] Baldwin served as a registrar at the conference. The Michigan Committee for Protection of Foreign Born participated in the conference. Baldwin testified to the effect that in the State of Michigan an organization known as the Civil Rights Congress was the organization to which were referred Party members involved with law enforcing agencies and having immigration and naturalization troubles; that in the fall of 1948 the workload of the Civil Rights Congress became too heavy and a special committee was set up to take care of the foreign born of the Communist Party; and, that the name of the committee was the Michigan Committee for the Protection of the Foreign Born. The substance of Baldwin's testimony is credited.[2]

Petitioner's witness Glatis was assigned in 1950 by the Communist Party in New England to a "sleeper basis" and told to work entirely through Communist-front groups rather than any open activity as a member of the Communist Party. In connection with this work for the Party Glatis attended a meeting in Boston, Massachusetts, in about May of 1950, which was the founding meeting of the New England Committee for Protection of Foreign

1 Indicative of the relationship between the various local committees and the National Committee (supra) are the facts that in 1949 one Lenus Westman was a director of the national and also an officer of Northwest, that he attended this conference and thereafter reported on it to meetings of the Northwest Committee.

2 There is conflicting evidence on when the Michigan Committee was first organized. The point is not of substantial materiality.

[fol. 47]

Born. A number of the 25 or 30 people present were shown by the evidence to have been members of the Communist Party. Glatis subsequently attended two meetings of the New England Committee, one in March of 1953 and the other around February of 1954. He received literature of the Committee through the mail and literature of the American Committee was available at meetings sponsored by the Communist Party, which Glatis attended in the period 1950-1952. Based upon his attendance at the meetings, and upon the literature which he received, and upon discussions during his Communist Party membership, Glatis testified that the purpose of the New England Committee was to defend those who were subject to deportation as a result of being members of organizations that were dedicated to the overthrow of the Government by force and violence.

Petitioner's witness Lautner in 1945 was put on the credentials committee of a conference held by the American Commiteee and was elected to the Executive Committee although he was not there and was not consulted prior to being made a member of the Executive Committee. His explanation was that he was at the time on the Nationality Group Commission of the Communist Party and being placed on the Executive Committee of the American Committee for Protection of Foreign Born without being solicited was the way the Party works. Lautner testified that the American Committee "functioned to give legal aid and legal protection for members of the Communist Party, and particularly leaders of the Communist Party, who had difficulties with immigration and naturalization cases or problems." (Tr. 1004.)

Petitioner's evidence on the purposes was contradicted by respondent's evidence. Respondent's witness Green did not deny, and affirmatively stated, that one of the activities of the American Committee is to defend members and former members of the Communist Party involved in deportation proceedings. But Green stated that the purpose is not to give aid and support to the Communist Party, or to promote the objectives of the Party. Green testified that it is the position of the American Committee that laws or court decisions which deprive noncitizens of their rights because of their membership, past or present, in the Communist Party most certainly affect the status of the rights and welfare of all noncitizens or affect the rights and the welfare of naturalized citizens, and at the same time establish the basis whereby the rights and welfare of native-born citizens can be undermined and destroyed.

Green testified similarly on the matter of the denaturalization or revocation of citizenship of persons on the grounds that at the time of naturalization they had been members of the Communist Party. On the matter of immigration, Green testified to the positions of the American Committee that a reasonable number of immigrants be admitted each year and that the statutory quotas are discriminatory and should be abolished for more flexible means

[fol. 48]

Green gave illustrations of non-Communist cases handled in the various fields of deportation, immigration, and naturalization.

On cross-examination, Green refused to answer, on constitutional grounds, the question whether he at any time since he had been executive secretary conferred with any functionary or official of the Communist Party concerning the affairs or policies of the American Committee.[1] Petitioner's witness Lautner testified, without contradiction or denial, and the testimony is credited, that Abner Green, and also Harriet Barron, attended Party meetings and had the benefit of the discussions and deliberations of the Party on all policies, and carried out Party policies with respect to the American Committee, and fitted Party policies into the functions of the American Committee.

Tending to corroborate this testimony of Lautner, and further indicating that respondent is the organization used by the Party to carry out Party objectives regarding deportees and the foreign born was the report made at the 15th National Convention of the Communist Party, as printed in the Party organ, Political Affairs, for February 1951. (A. G. Ex. 229.) This party report stated that "The fighting spirit of the I. L. D. is a proud heritage" and that:

> "The Civil Rights Congress, under the able leadership of William Patterson and Aubrey Grossman, is the logical inheritor of the I. L. D's record and experiences, and the Committee for the Protection of the Foreign Born, led by the devoted and indefatigable Abner Green, performs invaluable service in the fight against the government's deportation drive. It is the duty of all progressives to appreciate the need of these organizations, help raise funds, and support their work."[2] (A. G. Ex. 229, 127.)

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1 We have found, supra, based upon other evidence, that in 1953 Green met with the chairman and other officers of the Northwest District of the Communist Party and discussed with the Party district Chairman the work of the American Committee and the progress of the Northwest Branch. We have also found, supra, that sometime in the period 1948-1950, the chairman of the Party Northwest District reported at a meeting of the Party District Board that he had met with Green and Marion Kinney on the occasion of a visit that Green made to Seattle as the national head of the American Committee.

2 Additional evidence of Communist Party support of and favorable publicity for respondent is set forth infra.

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Still further evidence relevant to the real purpose of respondent was the facts established by petitioner's witness Mary Markward. She first learned about respondent through reading about it in the Communist Party press. Subsequently, around 1946, respondent was discussed at various meetings of the Communist Party, attended by Markward, particularly at the District level, as an organization that did from time to time assist Party members. In 1948, at the Communist Party office in Washington, D. C., Dorothy Strange, a Party functionary, told Markward that she (Strange) was working for respondent and that the work she at that time was doing with respondent was just as important to the cause of the Communist Party and was helping the Communist Party just as much as any work anybody was doing as even a functionary of the Party. Strange, who had been elected to the Communist Party district committee and district board in 1945 and had worked in the Party Office in Washington, D. C., was in Washington at the time on a mission for respondent. For the years from 1949 through 1952, when the office was discontinued, Dorothy Strange held the position of Naturalization Aid Director in respondent. (Supra.)

Respondent's constitution provided as to purpose that:

> "The purpose of the American Committee shall be to perpetuate for the foreign born the fundamental American concepts of equality, regardless of race, color, nationality, creed, or place of birth, and to preserve the fundamental ideals of liberty and hospitality which serve as the guarantees of democracy to all Americans.
>
> "The work of the American Committee shall be to promote better relations and understanding between native and foreign born by means of education; to encourage and facilitate the naturalization of non-citizens; to prevent discrimination against non-citizens or foreign born citizens because of their nationality, political, economic or religious belief, or lack of citizenship; to prevent the destruction of American families by the threat of deportation; to maintain the traditional right of asylum for political and religious refugees in the United States and to actively work for the solution of the problems confronting the foreign born in the United States.
>
> "The American Committee shall be an unaffiliated, non-membership, independent, non-partisan body cooperating with all other organizations interested in any phases of its program." (Resp. Ex. 88.)

[fol. 50]

Although not indicative standing alone, the fact that the constitution provides that the organization shall be "unaffiliated" and "independent" is consistent with the policy of the Communist Party, supra. Likewise, the provisions on the purpose and work when read in the light of this record are not inconsistent with a real aim or objective of aiding and supporting the Communist Party. Respondent's witness Reverend Moulton testified that "as far as my observation and knowledge goes" respondent's activities have been in furtherance of the purpose set forth in the constitution; that the work has been consistent with the United States Constitution; and that he has never observed anything which would lead him to the opinion that respondent is dominated by the Communist Party. (Tr. 7020-23.) It is to be noted that for the most part Reverend Moulton's relationship with respondent was by mail and he never attended any of its meetings or banquets.

Respondent's witness Louise Pettibone Smith testified to the effect that respondent defended anybody, including Communists, in pursuance of its own program and not that of the Communist Party. Respondent's witness Reverend Charles A. Hill testified that the literature of respondent has been consistent with the purpose set forth in the constitution and that the activities can be consistently supported by persons who disagree with Communism.

This leads us to an examination of the literature of respondent as it may indicate purpose. One consideration revealed from a review thereof is that respondent's support and defense of Communists has not been limited to those who were foreign born or who were involved in deportation or naturalization cases and has gone beyond the impression given by respondent's witnesses.[1] The evidence includes that now set forth.

In December of 1949, respondent went beyond the normal defense of the foreign born by supporting Communist Party functionaries Fred Estes and James Green, both of the State of Texas. Estes was sentenced to a jail term and fined by the Federal District Court for refusing to produce local Communist Party books at immigration hearings held to establish whether seven noncitizen residents of Dallas, Texas, were members of the Communist Party. James Green, Texas secretary of the Communist Party, was found in contempt of court for refusing to testify before an immigration hearing as to whether two residents of Houston, Texas, were members of the Communist Party.

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1 We consider under the next subheading respondent's actual activities in the defense of persons involved in denaturalization and deportation cases. The facts therein are also indicative of respondent's true purposes.

[fol. 51]

Respondent was active in supporting and defending one Gerhart (Gerhardt) Eisler in various proceedings. Petitioner's witness Lautner knew Eisler in 1935 as the representative of the Communist International in this country. Eisler was a well known foreign Communist. In the late 1940's, while Eisler was in this country. he was tried and convicted for willful contempt of the Congress of the United States. (Eisler v. United States, 170 F. 2d 273, 338 U.S. 189.) He was also tried and convicted of knowingly making false statements in an application to the Secretary of State for permission to depart from the United States. (Eisler v. United States, 176 F. 2d 21.) He was also arrested for deportation.

On the direct examination, counsel for respondent read to its witness, Abner Green, the allegation in the petition of the Attorney General that respondent actively supported the Communist Party in its efforts on behalf of Gerhart Eisler. Green testified that respondent defended him only in respect to the question of deportation and in respect to the questions of bail in deportation proceedings; that in so doing respondent was not advocating or following the views and policies of the Communist Party; and, that respondent was supporting its own program and the Bill of Rights - the Constitution of the United States. Conclusive evidence, on the other hand, shows that, contrary to Green's testimony, respondent supported Eisler and filed a legal brief in his behalf in the contempt of Congress case, in addition to defending him in the deportation matters.[1] This goes beyond the normal, avowed purposes of respondent.

While appeals were pending on his convictions in the criminal cases, Eisler was arrested on a warrant for deportation. He and other persons, two of them high officers of the Communist Party, U.S.A., were held on Ellis Island. Respondent actively participated in campaigns for the release of the five on bail and to "Let Gerhart Eisler Go Home." (Tr. 5432-43, A.G. Ex. 244.) After being released on bail, Eisler fled the country. Even

[1] Eisler became a fugitive while his conviction for contempt of Congress was pending review in the Supreme Court of the United States. The Court in Eisler v. United States, 338 U.S. 189, ordered the case removed from the docket. Mr. Justice Murphy, in a dissenting opinion at p. 193 characterized Eisler as "an alien, a Communist, and a fugitive from justice."

[fol. 52]

the campaigns of respondent on behalf of Eisler which were designed to avoid his being held on deportation charges and immediately to let him leave the country, seem to exceed the avowed purpose of respondent. Moreover, in carrying out these campaigns, respondent advanced positions similar to those advanced by the Communist Party.

For instance, the Party took the position that the fight for freedom of Eisler was "the battle to preserve political rights" (A. G. Ex. 281), that the government was exhibiting cynical cruelty in the "persecution" of Eisler and other Communist leaders (A. G. Exs. 282, 283), and criticized the Department of Justice drive against Eisler and other Communists. Likewise respondent criticized the Attorney General saying he "displayed a contempt for the principles of democratic procedure" in arresting Eisler (A. G. Ex. 185); complained of the Department of Justice's procedure in arresting Eisler as "a new tactic to harass and intimidate the American people" (A. G. Ex. 194); stated that the Justice Department used deportation as "a repressive weapon" (A. G. Ex. 199); and complained as the Communist Party did of the refusal of the department to permit Eisler to leave the United States. Even Abner Green's testimony, supra, that in defending Eisler in the deportation proceedings respondent was supporting the Bill of Rights, was consistent with the position of the Communist Party that "To advocate action against Communists is to destroy the Bill of Rights." (A. G. Ex. 281.)[1]

The Eisler case is but one of a number of instances shown by the record where respondent's views and policies have been similar to and have not deviated from the views and policies of the Communist Party.

Like the Communist Party, respondent has taken and advanced the position for repeal of the Smith Act. Among the evidence of the line taken by the Party in its efforts to arouse the public against the Smith Act was a statement issued in October 1951 by the National Committee of the Party condemning the refusal of the Supreme Court of the United States to grant a petition for rehearing for the Party leaders that had been convicted under the Act, and including the following:

> "The court of last appeal is the American people. They can wipe the Smith Act off the books now as they have many other obnoxious laws in the past.
>
> * * * *

1 Green refused on Fifth Amendment grounds to answer if he knew what position Eisler held in the Communist Party or whether he had attended a closed Party meeting with him in Pittsburgh, Pennsylvania, in 1948.

[fol. 53]

> "This decision signalizes that Wall Street is ready to go full speed ahead into a bloody war and a brutal fascism. It is a cause for the gravest alarm. It must alert the entire labor movement, the Negro people, the cultural and religious forces, to unite in a renewed and mighty effort to repeal the Smith Act. It calls for united efforts to repel increasing terror in our country and to halt Smith Act mass arrests." (A.G. Ex. 279, p.3.)

About six months after the issuance of the above-mentioned Party statement a publication called National Guardian contained an article by Abner Green, written as executive secretary of respondent, condemning the Supreme Court's upholding of certain deportation cases based upon past membership in the Communist Party. (A.G. Ex. 169.) Green declared that "any and every person who believes in peace and democratic rights [is] today threatened by un-American reaction" (Ibid). His article continued with:

> "At the base of this attack is the implementation of the 1940 Smith Act in the life of our country, utilized to jail leaders of the U.S. Communist Party and arrest dozens of others solely because of their political opinions.
>
> * * * * * *
>
> ". . . The Supreme Court majority has subordinated the people's interests to the inciters of war hysteria and proponents of a police state. But the court of last resort, the people itself, is still to be heard from ---. . . ." (Ibid.)

In addition to advancing positions similar to those of the Communist Party regarding the Smith Act, the record shows, contrary to respondent's contention (exception 51), that respondent's opposition to the Smith Act has not been limited to the "anti-alien" provisions. For example, at one of its national conferences respondent went on record urging support of an organization named Civil Rights Congress in defense of the Communist Party officials indicted for violation of the conspiracy provisions of the Smith Act. Also, various exhibits showed resolutions and other actions of respondent seeking repeal of the Smith Act which were not limited to the alien provisions or even singled them out for specific mention.

In 1953, respondent circulated a booklet written by Abner Green seeking to rally the people behind a campaign for repeal of the "hated"

[fol. 54]

Walter-McCarran Act. (Resp. Ex. 191.) Contained therein was the statement that: "The Smith Act prosecutions and jailings of Communist Party leaders bolster the McCarthys and Veldes." (P. 47.) Green was asked on cross-examination what relation there was between the Smith Act prosecutions and the work of respondent. He replied that the relationship "exists in the social sense," that the Smith Act prosecutions "helped to contribute to the hysteria, which served to intensify the persecution of the foreign born." (Tr. 6726.)[1]

This booklet also contained the position that:

> "The increased outbursts of anti-Semitism in all parts of the country, symbolized by the rotten frame-up of the Rosenbergs, feed the bigots and the hate-mongers." (Resp. Ex. 191, p. 47.)

The cross-examination of Green on this was as follows:

> Q. Now, Mr. Green, is there any deportation or immigration or denaturalization or naturalization aspect of the Rosenberg case?
>
> A. There is no direct aspect. There is the indirect aspect that the kind of treatment accorded the Rosenbergs, the frame-up to which they were subjected, helped to create, to stimulate anti-Semitism, and also hysteria in the country, as a result of which it was a lot easier for the Justice Department to proceed to arrest several hundred non-citizens than it would otherwise have been in the course of the hysteria that was generated.
>
> Q. Are you familiar with the Rosenberg case?
>
> A. Somewhat, yes.

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[1] On direct examination Green sought to give the impression that respondent's opposition to the Smith Act was limited to the alien provisions. He testified that respondent did not campaign against the enactment of the "sedition section" and thereafter did not campaign for the repeal of the sedition section (dealing with the advocacy of the overthrow of the government by force and violence and membership in an organization that so advocates). (Tr. 5924.)

[fol. 55]

Q. Can you recall or do you know, Mr. Green, what the charges were in the Rosenberg case? You don't have to use legal language.

A. I think they were charged with being human beings and Jews.

Q. Are you being facetious now Mr. Green?

A. No, I am answering your question.

Q. There is no attempt there to be humorous?

A. Not in the slightest.

Q. Do you know, Mr. Green, that the Rosenbergs were charged with conspiring to commit espionage against the United States?

A. I know the Rosenbergs were murdered by the United States Government.[1] (Tr. 6730, 6731.)

The booklet (supra) also stated: "The increased prosecution of trade unionists under the Taft-Hartley Law provides ammunition for the enemies of the people"; and, "The vicious jim crow system and the national pattern of discrimination and genocide suffered by the Negro people strengthens McCarranism."[2] (Resp. Ex. 191.) Green conceded on cross-examination that there is nothing in the Taft-Hartley law that pertains to immigration or deportation or denaturalization matters.[3] His explanation was that Taft-Hartley affects deportation and immigration matters by generating hysteria and encouraging "the Justice Department to carry on forays on communities with FBI investigations and arrests and possible deportations." (Tr. 6732.) The Communist Party, as evidenced by Political Affairs for February 1951, had referred to the "straightjacket of Taft-Hartley" and advanced the position that "the persecutions of Communists and alleged Communists in trade unions under the Taft-Hartley Law" were among the corollaries to "direct attacks" upon the Party. Included

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1 See infra, the facts showing a similarity of positions taken by respondent and the Communist Party in attacking the United States Government.

2 We repeat, for emphasis, that this proceeding is not concerned with the merits of any positions taken or views expressed and that the merits of any positions or views are in no respect issues herein.

3 The Taft-Hartley law contained provisions requiring officers of labor organizations to file so-called non-Communist affidavits. (See section 9h, 29 U. S. C. 159 (h).)

by the Party among the "direct attacks" were deportations under the McCarran Act. (A. G. Ex. 229, pp. 127 & 129.)

The reference in the booklet (supra) to the Negro people is part of the evidence indicating that respondent has followed the Communist Party line in seeking to influence and win over the Negro people.[1] An approach by both organizations has been to link the Government's deportation activities with asserted lynchings and "Jim Crow" policies toward the Negro people claimed to have been carried out or sanctioned by the Government.

An early statement of the Communist Party's objective in connection with seeking to win over the foreign born appeared in a 1934 Party organ stating that the mass organizations

> ". . . must become levers in the hand of the Party for winning the majority of the working class. In this respect the language mass organizations must become the levers for moving the foreign-born masses to march shoulder to shoulder with their exploited brothers, the native Negro and white workers, in the class battles along the road of the working class way out of the crisis, along the road to Soviet America." (A. G. Ex. 1, p. 710.)

The record gives numerous instances showing that a consistent means used by the Communist Party in its efforts to win over the foreign born and others to Party causes and objectives has been by attacks upon the United States Government or branches thereof. At times the terms "reaction," "reactionary forces," "ruling class" (circles), and "American imperialism" (U. S.) have been used. For example:

> "We [Communist Party] have to be alert to all sorts of tricks, through which pro-fascist reaction attempts to penetrate our ranks and undermine our Party by sending into it spies, agents provocateurs, and traitors to the working class." (A. G. Ex. 161, p. 24.) (Emphasis added.)

> ". . . the ruling circles of our country, in the guise of anti-Communism, are exerting the full force of state power in an all-out drive to weaken and undermine the fight for wage increases, pensions, upgrading for Negro

1. As early as 1934, the Party had the program to build the Party by "'winning . . . the native white and Negro workers'" but without ignoring "the role of the foreign-born masses, ..." (A. G. Ex. 1, p. 701.)

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workers; to smash the fight against speed-up and ultimately to re-establish the open shop and destroy free trade unionism." (A. G. Ex. 161, p. 22.) (Emphasis added.)

"Gerhart Eisler, refugee German Communist, was sentenced to from one to three years imprisonment by Federal Judge James W. Morris. Eisler, before he was sentenced, gave a dramatic exposure of the reactionary political maneuvers behind his conviction. . . ." (A. G. Ex. 285, p. 5.) (Emphasis added.)

"Reactionary forces, roused and organized by Hearst and the Liberty League, and striving to seize the Government fully." (A. G. Ex. 7, p. 1.) (Emphasis added.)

"The agents of the ruling class within their ranks. . . mislead them [the foreign born] along the line of class-collaboration, of submission before the bosses." (A. G. Ex. 8, p. 4.) (Emphasis added.)

"The ruling class has decided it must smash this unity [native, foreign-born, white, and negro workers]. It has begun its drive." (A. G. Ex. 89, p. 1.) (Emphasis added.)

"The drive to stir up hysteria against the millions of foreign-born is a calculated effort to break down the resistance of the majority of the people who oppose our country's involvement in the imperialist war." (A. G. Ex. 228, p. 626.) (Emphasis added.)

Among the Party attacks upon the Government have been to condemn what the Party called attempts to "strangle the people's movements" in foreign countries. (A. G. Ex. 232.) The Daily Worker for January 1, 1952, contained the following:

"The voices and actions of the American people in 1952 assure the world that we and our country are not identical with the corrupt and desperate American ruling class, but our contempt for them is identical with that of people elsewhere." (Ibid.)

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Respondent has likewise condemned the United States Government in the same activities condemned by the Communist Party. In 1945, Abner Green made a "report" as executive secretary of respondent, at the eighth annual conference. (A.G. Ex. 259.) He was critical of "American poll-tax Democrats" and "Herbert Hoover Republicans" who he said were intervening against the people of Europe. (P. 12.) He was critical of the "domestic and foreign policies of the government" as endangering the welfare of all Americans. (P. 12.) He used the various terms, in describing American leadership, of "camp of native reaction," "reactionary elements," and "fascist propagandists." (P. 13.) Among the statements in his report were:

> "The foreign born are justifiably concerned with the direction that is being taken by the United States Government in its dealings with the recently-liberated peoples of Europe and the Orient." (A.G. Ex 259, p. 12.)
>
> * * * * * * * *
>
> "The failure of the Department of State to pursue a policy of supporting the democratic people's movements in Europe and the Orient undermines the unity of the American people. Our safety and our security rests on our winning for the people of the liberated countries an opportunity to establish governments free from reactionary interference. (Ibid.)
>
> * * * * * * * * *
>
> " . . . we must realize that these fascist propagandists are exceedingly clever. For instance, they appeal to Polish-American home-owners in Detroit with their anti-Negro propaganda. . . . They drag out all of Hitler's lies against the Jews, against the Soviet Union, and against the threat of so-called communism, which covers everything progressive and everything decent in American life." (P. 13.)
>
> "It is to our own interests to protect the foreign born from facist influences, to expose and to fight these forces and their poison of anti-Semitism, anti-Negroism, and anti-Sovietism. . . . fighting the reactionary forces among the foreign born will help weaken native reaction. It is our

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responsibility to help the progressive democratic forces in the foreign born communities fight this poison, to expose and to defeat these enemies of democracy." (P. 13.)

In 1951, respondent issued a booklet written by Abner Green entitled "the deportation drive vs. the bill of rights." (A. G. Ex. 56.) It combines an appeal for support in opposition to the McCarran Act [codifying the immigration and naturalization laws] with attacks upon so-called "reaction in the United States" (p. 7) or "American reaction" (pp. 11, 19), and with defense of the Communist Party (p. 7). Using the usual theme that the rights of "all sections of the American people" are "under serious and dangerous attack," (p. 6) respondent's booklet declared:

> ". . . on December 4, the United States Supreme Court will hear argument on a case that may well decide the whole future course of American democracy when the appeal of the leaders of the Communist Party is heard and the constitutionality of the 1940 Smith Act is tested. At the same time, we witness new attempts to illegalize the Communist Party, as the Justice Department puts into operation the registration sections of the 1950 McCarran Law.
>
> "Our concern is with the status and rights of those Americans who are foreign born, since reaction in the United States has always attempted to use the foreign born as a scape-goat and as an additional means for dividing the people of this country.
>
> "We must develop that kind of program of action, and make possible that kind of defense of the rights of foreign-born Americans, that will help defeat the current attack on the rights of the foreign-born and contribute thereby to the defeat of the reactionary attack on the civil rights of all Americans." (P. 7.)

Defense of the Communist Party was woven into a booklet written by Abner Green in 1950 and circulated and sold by respondent. (A. G. Ex. 166.) Entitled "The Deportation Terror A Weapon to Gag America," the booklet concentrated on deportation proceedings against one Peter Harisiades for past membership in the Communist Party as an organization advocating the overthrow of the Government by force and violence. (We further consider, infra, respondent's defense of Harisiades.) The following are excerpts from the booklet's presentation of what was involved in the Harisiades case:

[fol. 60]

"In finding that the Communist Party is an organization that advocates the overthrow of the government of the United States by 'force and violence,' the Justice Department could not point to one instance since it was organized in 1920 when the organization actually advocated force or violence or taught its members any such beliefs. (P. 9.)

"The Justice Department based its findings on the literature circulated by the Communist Party, the Marxist classics, some of which are more than 100 years old. (P. 9.)

"The record in the Harisiades case is hundreds of pages long. Peter Harisiades testified at length as to his beliefs and as to what the Communist Party taught him and advocated during the years of his membership. William Schneiderman, an American citizen, whose citizenship the United States Supreme Court preserved in 1945 in its historic decision after Wendell Wilkie argued in his behalf, also testified in the Harisiades hearings. (P. 9.)

"Mr. Schneiderman, who is California State Chairman of the Communist Party, discussed the principles of his organization, denied that it believes in, or ever believed in, force or violence, and completely exposed the Justice Department's charges as political persecution. (Pp. 9 & 10.)

"But, nowhere in these hundreds of pages did the Justice Department present so much as one iota of proof that the Communist Party believes in, or advocates, the overthrow of the government of the United States by 'force and violence.'" (P. 10.)

Under the heading "Part of General Attack" the following appeared:

"The deportation drive and the hysteria against the foreign-born are an essential part of the concentrated drive on the rights of all minorities in the United States and the general assault on the liberties of the American people. (P. 19.)

[fol. 61]

"Lynchings of Negro people in the South. . . . The 'loyalty' program for government workers. . . . The Hollywood 10. . . . Increased police brutality against the Negro people in industrial centers and against Mexican-Americans in the Southwest. . . . The Los Angeles 21 and the Denver 6. . . . Increased anti-Semitic propaganda. . . . The Trenton 6. . . . The attempt to jail the leaders of the Communist Party because of their ideas. . . . (P. 19.)

"These — together with the deportation drive — are part of the general attack on the rights of all Americans who believe in peace and the democratic way of life." (P. 19.)

The testimony of petitioner's witnesses as to the true purposes of respondent is strongly supported by the other findings made under this subheading. It is significant that respondent has taken and advanced views and policies on matters outside of and beyond the field of the foreign born; that in each instance of record such views and policies have been in areas involving either directly or indirectly the Communist Party of the United States and favorable to the Party; and, that in such views and policies as well as in its views and policies in the field of the foreign born respondent has paralleled the views and policies of the Communist Party and has not in any instance deviated therefrom. We find that the clear preponderance of the evidence establishes that the purposes of respondent have been to aid and support the Communist Party.

This finding is further established by the facts that emerge from the record as to the detailed work and activities of respondent, particularly in connection with the foreign born, which we now consider.

Activities

It is clear from the record that the legal and propaganda defense of individuals involved in deportation and naturalization cases has occupied a substantial part of the time, effort, and attention of respondent. Considerable time and effort have also been devoted to working to defeat existing laws in the fields of deportation, naturalization, and immigration; promoting legislation; and, opposing the administration of the laws in these fields.

In connection with these activities, respondent has issued many leaflets, pamphlets, flyers, and other material, and has published the newspaper-type periodical, The Lamp, as well as the occasional publication, Review of the Year.

[fol. 62]

The American Committee, national organization of respondent, has, for each year from 1937 to the time of the hearing (except in 1944 and 1946) held annual conferences. It has also sponsored various events such as: pilgrimages to Washington, D. C., in 1949 and again in 1951, at which there were picketing and demonstrations in behalf of certain deportees; banquets and ceremonies keyed to various aspects of deportation and naturalization work; and, speaking tours of officers of the organization in behalf of the organization and its programs.

The various local committees, branches of respondent, have sent delegates at times to the events of the national organization and have themselves held or sponsored various conferences, testimonial dinners and other affairs, such as: "Midwest Conference on Deportations"; festivals of nationalities; "California Conference to Defend the Rights of Foreign Born"; and regional conferences.

Illustrative of the general nature of respondent's publication The Lamp, the issue for "Dec., 1950 - Jan., 1951" (Resp. Ex. 270) includes: announcement of a pamphlet being sold by respondent discussing "the McCarran Law and the rights of foreign-born Americans"; announcement that argument in the appeal in the deportation case of Peter Harisiades had been postponed; birthday greetings to a list of "non-citizens who are among those facing deportation"; announcement of the sale of a leaflet "Deadly Parallel: 1920-1951"; articles entitled "National Conference Adopts Program and Elects Officers For Coming Year," "Joe Weber Conviction Reversed By Federal Court of Appeals," "Revocation Proceedings Initiated Against Tenth American Citizen," "More Serious Than 1920 Palmer Raids"; "McCarran Law Deportation Drive," "'Fight Deportation' Month To Be Observed March 1951"; "Prominent Individuals Join In Protests," "Organizational Activities"; and, the commendation of respondent for attorneys who had represented persons held without bail on deportation charges.

No useful purpose would be served in detailing the voluminous evidence of respondent's apparently tireless work on what it holds out to be issues confronting or affecting the foreign-born. One further illustration will suffice. Respondent's publication "Review of the Year 1950," a copy of which was put in evidence by petitioner (A. G. Ex. 25) summarizes the activities and work during 1950 in connection with noncitizens and naturalized citizens, and outlines the program for 1951 adopted by "the National Conference to Defend the Bill of Rights, which met in New York City on December 2 and 3, 1950" (p. 3). As shown by this publication, the work and activities during 1950 included: the legal defense, at deportation hearings and in appeals to the courts of individual deportation cases; efforts in connection with getting deportees released on bail; support of applications for naturalization, and opposition to revocations of naturalization; the publication of

[fol. 63]

material such as folders concerning various individual deportation cases; the issuance of petitions and other protests against the Government's actions in various deportation and naturalization cases; and a summary of "victories" or favorable decisions of the United States courts involving aliens. The program for 1951 as outlined in the publication followed the same general lines as the actual activities during 1950, with apparent emphasis in 1951 on seeking the repeal of the deportation, naturalization and immigration provisions of the 1950 McCarran Law.

A review of the evidence, both the documentary material and the oral testimony, shows that at every opportunity, in its publications and flyers as well as at its conferences and other affairs, respondent urged and appealed for public voluntary contributions to carry out its work and activities. Such review also shows a constant effort to attract people to respondent and to induce public support for its programs and activities, particularly by advancing the position that the interests and liberties of all Americans are affected by the Government's policies and actions involving the foreign born.

In past years, at least, respondent was successful in obtaining the good will and support of the public, including persons prominent in government, civic, labor and religious life. The annual conferences have been attended by as many as 300 to 400 people of various walks of life and these people have participated as speakers and approved the programs and activities of respondent in connection with the foreign born. The annual conferences have been open to the public and any individual or organization could pay a registration fee of one or sometimes two dollars and participate in the sessions of the conferences. Since 1949, no government officials or members of the Congress of the United States have sent messages to or appeared at respondent's conferences, as some had in prior years. Abner Green attributed this to the fact that the organization had been included on the Attorney General's list of subversive organizations under the provisions of the executive order establishing a loyalty program for Government employees. Respondent did not avail itself of the procedure for a hearing in connection with the listing by the Attorney General. Respondent's witness Soldo, whose father had been aided by respondent in connection with deportation charges, testified that had the Western Pennsylvania Committee (branch of respondent, supra) ever preached Communism to him, "I wouldn't be around there long." (Tr. 6301.)

Abner Green testified that the purpose of the annual national conferences has been:

> ". . . to serve as a general review of the work of the American Committee for Protection of Foreign Born during the preceding year, to discuss current problems

[fol. 64]

facing the organization, and, in addition, of course, facing the foreign born in the United States and to work out a general program for the coming year to serve as a guide for the work of the organization and the administrative staff and the officers in carrying out the program of the American Committee." (Tr. 4873.)

Green further testified that the national conferences have been the only body of the American Committee that have ever set the policies of the organization; that the conferences elected the officers; and, that the policies and decisions of the national conferences have been binding on the officers of the American Committee.

It appears to be true that those who have attended the national conferences have reviewed the general work and activities of respondent in connection with the foreign born, and have adopted programs for the coming year although limited to the fields of deportation, naturalization, and immigration. To the extent that Green's testimony, above, goes beyond this, the testimony is not in accord with the preponderance of the evidence.

The actual management, direction, and supervision of the work and activities of the organization on the national level have been carried out and conducted by Communists Abner Green and Harriet Barron with minimal, if any, participation by the other officers, regular or honorary. (Supra.) The management, direction, and supervision of the branches (local committees) have been by Communist Party members such as Ruth Hillsgrove for the New England Committee; Evelyn Abelson and Bess Steinberg for the Western Pennsylvania Committee; Saul Grossman for the Michigan Committee; Marion Kinney for the Northwest Committee; and Delphine Smith for the Los Angeles Committee. (Supra.) As on the national level, there is no evidence of any participation in the actual management, direction, and supervision of the work and activities of the branches by any other officers.

The constitution of the national organization, and the constitutions of those of the locals that are of record, provide for the delegation by the annual conference of full responsibility for carrying out the programs, and provide that the executive secretary (who on the national level has been Communist Party representative Abner Green for many years) shall be responsible for the work and activities in between the annual conference. The limited number of minutes of respondent's meetings put in evidence shows no officers present other than these administrative officers. Minutes of the January 16, 1951, meeting of the executive board of the Los Angeles Committee showed Delphine Smith in complete charge of the work, and specifically provided that:

[fol. 65]

"Delphine Smith gave a thorough report of reorganization plans that were discussed when Abner Green visited Los Angeles and also action that has been suggested for the immediate future. . . . The Executive Secretary will be empowered with full responsibility to take action immediately when necessary without having to wait for an Executive Board meeting. . . . In line with the National Conference the Los Angeles Committee will have a Chairman, Co-Chairman and Treasurer for Officers and also a list of prominent sponsors who will act as Board of Directors, honorary offices (sic) without organizational responsibilities."

* * * *

"Delphine Smith informed the Board of the change of offices to Room 311, same building." (A. G. Ex. 62.)

The conclusion is clear from this record that such things as the expenditure of respondent's funds, the pitch or line to be taken in its published material, the selection of day to day activities and of emphasis to be given in the campaigns, and the amount of effort to be applied in deportation and naturalisation cases, rest with and are controlled by Abner Green and the other Communist Party people holding the administrative positions in the organisation. The set-up is such that the organization can be run for Communist Party purposes as found supra.

Many of the facts previously found in considering the purposes of respondent are also indicative of and show activities in the carrying out of such purposes. It is pertinent, however, to examine in more detail the deportee defense activities.[1] In so doing we repeat again that it is not the fact of defending people which is relevant but the purposes for doing so. The emphasis in petitioner's evidence was upon Communists defended by respondent. On the other hand, Green testified and the record otherwise supports it, that respondent has defended a number of persons arrested for deportation on the basis of past or present membership in the Communist Party, but has also defended many non-Communists arrested for deportation on charges not involving any affiliation with the Communist Party.

Petitioner's witness Lautner testified that the defense of non-Party members was not incompatible with the operation of respondent as a Party defense organization, that "In fact, that would add to the prestige of the organization." (Tr. 1139.) Such defense activities and the approaches used by

1 "Defense" as we use it here includes both legal and propaganda. Legal defense includes providing attorneys and representation. Propaganda includes publicity and efforts for public support.

respondent (see supra) are consistent with the purpose of the Communist Party to have an ostensibly non-Party organization to assist Party members involved in deportation, and with the purpose of winning the good will and support of the entire foreign born segment of the population. In the context of this record, the fact that respondent has defended a number of non-Communists is not persuasive in showing independence from Communist Party control or operation for Party purposes. [1]

Respondent's actual work and activities in the legal and propaganda defense of Communist Party members has been substantial. Respondent has worked intensively for the repeal of all provisions of the laws of the United States covering the deportation of noncitizens on the basis of membership, past or present, in the Communist Party. In addition, respondent has worked in behalf of a large number of specific individuals who were involved in deportation proceedings on charges of past or present membership in the Communist Party. [2]

A so-called past Party membership case given considerable attention by respondent from the late 1940's up to the time of the hearing involved one Peter Harisiades. Abner Green testified that respondent's activities in behalf of Harisiades were not an attempt to seek public support or public sympathy for the Communist Party, that "it was an attempt to win public sympathy and support of the American people for the protection of the foreign born and for the position of the American Committee in respect to the deportation of noncitizens in cases of this character." (Tr. 5477.)

Yet, the literature issued by respondent in its nationwide campaign in the Harisiades case shows strong efforts to undermine public trust in the Department of Justice, to relate the deportation of Communists to attacks upon the constitutional rights of all Americans, and to press for a stop to the deportation of Communists. For example, respondent in the Harisiades

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1 While the merits of the deportation and naturalization cases handled by respondent are not issues in this proceeding, we have given appropriate regard to the fact that in a number of cases the courts held in favor of the defended alien.

2 Abner Green testified to the effect that less than ten percent of the total cases handled by respondent involved allegations of past or present Party membership. Other evidence of record indicates a much higher proportion, at least in excess of fifty percent. The actual number of people defended by respondent in the various categories is not necessary or important to the issues herein.

[fol. 67]

case as in other cases involving the deportation of Communists, accused the Department of Justice of "perverting the administration of the immigration and naturalisation laws" and "using them as a political weapon." (Resp. Ex. 174.) In addition to indirectly picturing the Communist Party as a mere political organization, respondent seemingly defended the Communist Party by references such as the following in its literature in the Harisiades case:

> "Peter Harisiades faces deportation to Greece on the ground that he is a former member of the Communist Party, which the Department of Justice alleges is an organization that advocates 'the overthrow by force and violence of the Government of the United States.' At the deportation hearing, Mr. Harisiades stated that neither he nor the Communist Party advocates, and that neither he nor the Communist Party ever have advocated, the 'overthrow by force and violence of the government of the United States.'" (Ibid.)

Respondent used the Harisiades case as a "test" case of the laws permitting deportation by reason of an alien joining the Communist Party after entry into the United States.[1] (A. G. Ex. 166.) According to respondent's literature, Harisiades joined the Communist Party in 1925, later held certain official positions in the Party, and ceased membership in 1939 only because the Communist Party dropped aliens from its rolls but without changing his social or political views. Petitioner's witness Lautner showed without contradiction that Harisiades was a member of the Nationality Groups Commission of the Communist Party at least as late as 1945.

We find that respondent's work and activities in the Harisiades case were consistent with the purposes of the organization as found supra.

With respect to the defense by respondent of individuals subject to deportation on the basis of current membership in the Communist Party, those defended have included a number of the top officers of the Party. Among them were the following members of the top governing committee of the Party, some of whom also held other offices as indicated: Alexander Bittelmen, Betty Gannett, Claudia Jones, Irving Potash, Jack Stachel, educational director, William Weiner, and John Williamson, trade union secretary. In connection with the defense of Party members against being

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1 Respondent's publication, The Lamp, issue for Aug.-Sept. 1952 (A. G. Ex. 218) reported that the Supreme Court of the United States upheld Harisiades' deportation and that in May of 1952 he was granted political asylum in Poland.

deported, we note that, significantly, in the case of foreign Communist representative Gerhardt Eisler, respondent supported him and the Party in efforts to allow him to leave the United States. (See supra.)

Among other Communists whom the record shows respondent has assisted in efforts to prevent deportation were: Party functionaries Beatrice Siskind Johnson; Ferdinand Smith, Dora Lipshitz, Toma Babin, Michael Obermaier, George Siskin, Alexander Stephens, alias Joe Goldberg and J. Peters, Israel Amter, Sam Mills, alias Sam or Sampson Milgrom, and Party members Morris Taft and James Lustig.

The work and activities of respondent in the field of the foreign born have been clearly consistent with the purposes found supra, and there have been no activities inconsistent therewith. A substantial part of respondent's resources, time and efforts have been devoted to campaigns directed at the elimination of all provisions of the laws under which alien members and officers of the Communist Party are deportable, to the legal and propaganda defense of such persons when they have been actually involved in deportation proceedings, and to instigating protests against Government officials when deportation charges have been brought against Communists. Respondent has consistently and strongly sought funds from the public with which to carry out its activities and has sought to win the good will of the foreign born. Obviously these activities, particularly in opposing the laws and working to prevent the deportation of Communists, constitute aid to the Communist Party.

Communist Party Support of Respondent

There remains for consideration the issue of the extent to which respondent's support has been derived from the Communist Party of the United States. (Section 13(f)(2) of the Act; Amended Petition, p. 7.) Our findings supra show a definite policy on the part of the Communist Party fully to support respondent.[1] The findings supra also show important implementations of this policy in providing leadership for respondent, organizing branches of respondent, and discussions by Party officials with the leaders of respondent on the operations of respondent.[2]

1 For instance, the statement of top Party leader William Z. Foster, which the Party published in Political Affairs, that it was the duty of all progressives to appreciate the need of the organization, to help raise funds for it, and to support its work.

2 For instance, the designation by the Party of Marion Kinney to organize the Northwest branch and her subsequent meetings with Party officials concerning her work in the branch; also, the selection of Abner Green to head respondent, and Green and Barron attending Party meetings where they "had the benefit of the discussions and deliberations of the Party on all policies." (Supra.)

[fol. 69]

Petitioner's witnesses who had been members and functionaries of the Communist Party and documentary evidence showed without specific denial or contradiction a consistent pattern of Party support of respondent and aid in respondent's activities. This included the fact that the P rty specifically instructed its members to contribute to respondent and to actively support respondent's affairs. It also included evidence: that the Party circulated material issued by respondent; that the Party sold tickets to the affairs of respondent; that Party officers and functionaries served as speakers at affairs given by respondent; that the Party made financial contributions to respondent; and, that respondent was given considerable favorable attention in the Party press. We consider this latter aspect in more detail below.

Respondent did not specifically deny or contradict the evidence that we find constituted aid or support given by the Communist Party. [1] The thrust of respondent's contentions was that the Party support was insignificant and does not tend to show that the Party controls respondent or that respondent was primarily operated for Party purposes. Abner Green testified that, generally speaking, respondent is financed by public voluntary contributions from individuals and organizations; that it also tries to sell literature; and, that it makes special appeals in connection with campaigns in specific cases. Green further testified that in accepting contributions respondent in no sense and at no time has in order to obtain them committed its program or its policies.

Among the evidence presented by petitioner of Party financial support was a check in the amount of $2000 given by the Communist Party to respondent. [2] Green explained the check as having been contributed by the Party to finance the legal expense of respondent in defending certain Party leaders who at the time had been arrested in deportation proceedings. Green also testified that respondent has received checks from labor unions whose members or leaders it was defending in deportation proceedings.

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1 We reject respondent's generalized contention, exception 34 to the recommended decision, that the instances of Communist Party aid and support are based upon testimony of unreliable witnesses.

2 Two other specific instances of financial aid given by the Communist Party to respondent were shown by petitioner's evidence: - a financial report of the Los Angeles Committee reflected that in 1950 the amount of $35 was received from the People's World and in October of 1950, Frank Carlson spoke as a Communist Party leader at a conference of the Los Angeles Committee and contributed $50 toward the reorganization of the Committee on behalf of the Communist Party,

[fol. 70]

On the matter of speakers, greetings, and publicity, Green's testimony, and documentary material as well, established that in the 1940's officials of the United States Government, including the Department of Justice, spoke at affairs of respondent and otherwise endorsed the work of the organization. Other prominent people have done likewise. An example of respondent's evidence on the support given it is a letter dated in April of 1948 addressed to respondent by the then Commissioner of Immigration and Naturalization asking the cooperation of respondent in the celebration of "I am an American Day" and complimentary of respondent. (Resp. Ex. 239, Tr. 6223-6226.) Another instance was a broadcast by the Office of War Information in 1945 to Australia and New Zealand in reference to the American Committee and the work of the American Committee. Another instance was that the Department of Justice, in 1941, contributed time for a nationwide radio broadcast on behalf of the American Commiftee for Protection of Foreign Born.

Petitioner argued that it is irrelevant and immaterial whether non-Communist groups or individuals have rendered support to respondent and given respondent favorable publicity. (See Petitioner's Reply to Respondent's Exceptions to Recommended Decision, p. 22.) Petitioner also contended that: "Certainly it is clear from the record that any non-Communist group which may have been duped into assisting Respondent would not have done so with knowledge of Respondent's true nature." (Ibid. See also, tr. 7162-7163 and 7173.) It is, of course, true, as argued by petitioner, that other organizations and their views and activities are not involved as issues in this proceeding, and that the ultimate issue herein is the relationship between respondent and the Communist Party. However, in determining whether there is any significance in the evidence of aid and support given to respondent by the Communist Party, we have taken into consideration the evidence presented by respondent, examples of which are set forth above. [1]

We find that in the context of the record as a whole there is significance in the cumulative evidence of aid and support given respondent by the Communist Party. This is particularly true as regards the Party press. Some instances have been set forth, supra, of the nature and type of statements concerning respondent that were published in the Party press. The interest of the Party press in respondent took the following forms in the evidence of record: (a) printed calls to and announcements of various and sundry functions

1 We have also considered respondent's contention, as made in exception 35, that the Communist Party discusses and shows an interest in and supports many non-Communist and anti-Communist organizations. In support, respondent pointed to the cross-examination of some of petitioner's witnesses, including Lautner, Hartle and Harper. We have reviewed the testimony involved and find that it does not establish the findings claimed by respondent.

[fol. 71]

of respondent; (b) reported fund appeals of respondent and urged donations thereto and reported names of honorary and other officers of respondent; (c) reported from time to time on a number of deportation and naturalization cases being handled by respondent, and advised readers how and where to obtain aid from respondent; (d) reported deportation drives fostered by respondent and various protests sponsored by respondent, and urged joining them; and (e) urged readers to contribute bail money to respondent.

The Party recognition of respondent in the Party press dates back to the early years of respondent's existence and continued to the time of the hearing. The publicized Party statements and references to respondent have been consistently kindly, friendly and fostering with no strains of discord or adverse criticism.[1] One aspect of the favorable publicity given respondent in the Party press has been to urge Party members and other readers to support the protests, the meetings, the fund drives and the programs of respondent. Another aspect has been the Party capitalizing on and using respondent's activities, such as the defense of Party leaders in deportation proceedings, to the advantage of the Party. This has been done by the Party publicizing the fact that the Party leaders were being defended by a seemingly non-Party organization, and by publicizing the statements made and the positions advanced by respondent as part of respondent's drives in behalf of the Party leaders.

An illustration of the evidence on the foregoing is an article in the Daily Worker for June 2, 1948, which stated that Jack Stachel "national educational director of the Communist Party," had been arrested on a deportation charge, and which publicized the position on the arrest taken by respondent as follows:

> "The arrest is nothing but an attempt to 'promote political persecution and to terrorize the American people,' said Abner Green, executive secretary of the American Committee for the Protection of Foreign Born of 23 W. 26 St., in a wire to Attorney General Tom Clark yesterday." (A. G. Ex. 124.)

Another example of the evidence of Party use of respondent's activities was furnished by an article in the Daily Worker for May 10, 1949, quoting a statement said to have been released by respondent. It was a statement of one Alexander Stevens, who according to the Daily Worker, had departed voluntarily for Hungary. Included in the statement, which the Party publicized as having been released by respondent was the following:

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1 This is itself significant in comparison with the attitude taken in the Party press as to legislation, institutions, and Governments considered inimical to the Party. (See, supra.)

[fol. 72]

"My membership in the American Communist Party has been my certificate of citizenship, and I have cherished it as the symbol of my acceptance into the American working class to which I have tried always to give loyal service.

"Because the United States monopolists in their drive to fascism and imperialist war have used me as a focus to attack other Communists in the United States, they have made it impossible for me to make any real contribution to the cause of the American workers." (A. G. Ex. 127.)

Lastly, by way of example, the Party, in an article in the Daily orker for May 4, 1952, publicized that a conference initiated by the Midwest ommittee for Protection of Foreign Born (branch of respondent) had attacked nd was organizing resistance against Supreme Court decisions that past embership in the Communist Party was a deportable offense. (A. G. Ex. 8.)

We find that throughout respondent's existence there has been a clear tent and purpose of the Communist Party to aid, promote, and support espondent, and we find further that the aid and support given by or emanating om the Party has been substantial.

CONCLUDING FINDINGS

On the basis of the subsidiary findings of fact hereinbefore made and ter careful consideration of all of the credible evidence in this proceeding, e Board determines that the following conclusions were established by the reponderance of the credible evidence.

The American Committee for Protection of Foreign Born is an organ- ation within the United States consisting of a national headquarters in New ork City and affiliated branches or chapters at various places throughout e country, named committees for protection of foreign born of particular calities. It holds itself out as an independent organization assisting all ncitizens and naturalized citizens with problems arising as a result of their reign birth, and protecting the liberties of all the American people from hat respondent asserts is a spreading American police state.

The circumstances of the control of respondent are clear on this cord. Despite representations to the contrary, ample evidence established at the organization has been and at the time of the hearing was under the ctive control of and operated by a small number of individuals most of whom

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were shown to be members and representatives of the Communist Party of the United States. This appears not only from undenied evidence that the individuals were in fact Party members and from evidence that the chief leader among these individuals and at least one other were selected by the Communist Party to work in respondent, but from the nature and manner in which these individuals have operated respondent.

It has long been a policy of the Communist Party that the legal and propaganda defense of its members and officers be undertaken and carried out not by the Party itself but by a seemingly separate and independent organization. The Party also has long recognized and looked upon the foreign born as a good and likely source from which to gain adherents and sympathizers.

The weight of the credible evidence established that the purposes of respondent have in fact been to fight in many ways to prevent the deportation from the United States of members and officers of the Communist Party of the United States, and secondarily, to seek to win the good will of a certain sector of the population as a reservoir from which could be drawn adherents to and supporters for the programs and aims of the Communist Party. Thus from the true purposes of respondent and its control and direction by Party members and representatives there is strong evidence that respondent exists primarily to do particular work of and for the Communist Party. In addition, there are other significant considerations.

A major program of respondent under which it has undertaken and carried out concerted and concentrated drives and campaigns has been for the repeal of all the provisions of the laws of the United States authorizing and permitting the denaturalization and the deportation of alien members and officers of the Communist Party. Moreover, respondent has actually defended in deportation proceedings a substantial number of Communist Party members, included among them being top leaders of the Party, and respondent has strongly solicited public contributions and support of and for these Communists.

Asserting that the immigration and naturalization laws and their administration are alien-baiting and part of a reactionary drive to fascism and war, respondent uses this as a basis for vehement attacks upon and criticism of the Government of the United States. These and other views and policies taken and advanced by respondent are similar to and consistent with the views and policies of the Communist Party and there is no instance of record where respondent has deviated from the positions of the Communist Party. Some of the matters on which respondent has advanced positions similar to those advanced by the Communist Party have involved domestic laws of the United States not reasonably related to immigration or naturalization, such as criticisms of the provisions of the National Labor Relations Act requiring

officers of labor unions to file non-Communist affidavits. Significantly, although purportedly interested in preventing deportations, when foreign Communist official Gerhardt Eisler was being detained on criminal and deportation charges in this country and the Communist Party was agitating for his release from detention and freedom to leave the country, respondent provided legal assistance in Eisler's behalf and carried out intensive campaigns for public support of its efforts to let Eisler leave.

Respondent has in a seemingly innocuous way, coupled defense and support of the Communist Party itself with propaganda concerning the immigration and naturalization laws and in individual deportation cases. In all of its activities respondent has received substantial financial and other support from the Communist Party and the Party has sought to capitalize on respondent's efforts in behalf of Party members and officials involved in deportation proceedings.

Respondent's purported interest in the foreign born, its outward espousal of democratic rights, and its professed interest in civil liberties were designed to make it attractive to many of those it sought to attract, and it has undoubtedly received contributions and other support from the public that it would not have received had the true circumstances and its true nature been known.

In sum, we conclude and find that respondent has been and is (i) substantially directed, dominated, or controlled by the Communist Party of the United States, a Communist-action organization as defined in section 3(3) of the Act, and (ii) primarily operated for the purpose of giving aid and support to such Communist-action organization.

It follows that respondent meets the definition of a Communist-front organization as defined in section 3(4) of the Act and that pursuant to section 13(g) (1) of the Act an order shall issue requiring respondent to register as such under section 7 of the Act.

An appropriate order is attached hereto.

By the Board.

Boyd McCullough Leary, Chairman
Francis A. Flaherty, Member
James K. Donegan, Member
Thomas J. Donegan, Member
, Vacancy

Washington, D. C.
June 27, 1960

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APPENDIX

LIST OF WITNESSES

An asterisk (*) following the name indicates that the witness while in the Communist Party supplied information to the Federal Bureau of Investigation.

Petitioner's Witnesses

BERNICE BALDWIN,* a member of the Communist Party in 1943-1952.

EDWARD WILLIAM CARDIFF, assistant secretary in charge of branch office of Manufacturers Trust Company, New York City.

ROY M. COHEN, an attorney, formerly associated with the office of the United States Attorney for the Southern District of New York.

JAMES W. GLATIS,* a member of the Communist Party in 1949-1954.

CARL HACKER, a member of the Communist Party in 1919-1920 and 1927-1938.

REUBIN J. HARDIN,* a member of the Communist Party in 1931 and 1934-1937. Also from 1943 to about 1954.

CLARK M. HARPER,* a member of the Communist Party in 1943-1953, and a functionary in the Party's Northwest District.

BARBARA HARTLE, a member of the Communist Party in 1933 or 1934 - 1954, and a functionary in the Party's Northwest District.

JOHN LAUTNER, a member of the Communist Party in 1929-1950, and a functionary on the Party's national level.

ALFRO LAWSON, an investigator for the Immigration and Naturalization Service of the United States Department of Justice.

SARAH MALLOY, assistant vice president, Amalgamated Bank, New York.

[fol. 76]

MARY STALCUP MARKWARD,* a member of the Communist Party in 1943-1949, and a functionary in the Party's District of Columbia area.

MARION MILLER, a member of the Communist Party from 1952 to the time of testifying.

THOMAS J. NOLAN, an investigator for the Immigration and Naturalization Service of the United States Department of Justice.

HOWARD E. SCHEPELER, a supervisory investigator for the Immigration and Naturalization Service of the United States Department of Justice.

HERMAN THOMAS,* a member of the Communist Party in 1937-1939 and 1944-1954, and a functionary in the Party's eastern Pennsylvania area.

MAX WEINMAN, an investigator for the Immigration and Naturalization Service of the United States Department of Justice.

Respondent's Witnesses

ANTON JULIUS CARLSON, a sponsor of the American Committee for Protection of Foreign Born and chairman and co-chairman of the Midwest Committee for Protection of Foreign Born.

ABNER GREEN, executive secretary of the American Committee for Protection of Foreign Born.

CHARLES A. HILL, minister in the Baptist Church, sponsor and director of the American Committee for Protection of Foreign Born and co-chairman of the Michigan Committee for Protection of Foreign Born.

HARVEY K. McARTHUR, teacher at Hartford Theological Seminary and a sponsor of the American Committee for Protection of Foreign Born.

HORACE SPENCER MELDAHL, an attorney who has appeared in denaturalization and deportation proceedings.

ARTHUR W. MOULTON, retired Bishop in the Episcopal Church and sponsor and honorary chairman of the American Committee for Protection of Foreign Born.

[fol. 77]

SADIE SALTZMAN, wife of a person defended by respondent in deportation proceedings.

LOUISE PETTIBONE SMITH, professor, emeritus, of Biblical history honorary co-chairman of the American Committee for Protection of Foreign Born, and Honorary chairman of the New England Committee for Protection of Foreign Born.

PETER SOLDO, son of a person defended by Western Pennsylvania Committee for Protection of Foreign Born in deportation proceedings.

[fol. 78]

BEFORE THE
SUBVERSIVE ACTIVITIES CONTROL BOARD

Docket No. 109-53

WILLIAM P. ROGERS, ATTORNEY GENERAL OF THE UNITED STATES, PETITIONER,

v.

AMERICAN COMMITTEE FOR PROTECTION OF FOREIGN BORN, RESPONDENT.

ORDER OF THE BOARD—June 27, 1960

Having this day issued its Report in which, after a hearing upon a petition filed under subsection (a) of section 13 of the Subversive Activities Control Act of 1950, as amended, the Board finds that the American Committee for Protection of Foreign Born, respondent, is a Communist-front organization under the provisions of said Act, it is

ORDERED that the respondent herein, American Committee for Protection of Foreign Born, shall register as a Communist-front organization pursuant to the said Act.

By the Board.

, Chairman
, Member
, Member
, Member
, Vacancy

Washington, D. C.
June 27, 1960

[fol. 93] [File endorsement omitted]

IN THE UNITED STATES COURT OF APPEALS
FOR THE DISTRICT OF COLUMBIA CIRCUIT

No. 15960

AMERICAN COMMITTEE FOR PROTECTION OF FOREIGN BORN,
Petitioner,

v.

SUBVERSIVE ACTIVITIES CONTROL BOARD, Respondent.

On Petition for Review of Order of the
Subversive Activities Control Board

OPINION—Decided December 17, 1963

Mr. Joseph Forer for petitioner.

Mr. George B. Searls, Attorney, Department of Justice, with whom *Mr. Frank R. Hunter, Jr.,* General Counsel, Subversive Activities Control Board, *Mr. Kevin T. Maroney, Mrs. Lee B. Anderson,* and *Mr. Robert L. Keuch,* Attorneys, Department of Justice, and *Messrs. Charles F. Dirlam* and *Peter P. Hanagan,* Attorneys, Subversive Activities Control Board, were on the brief, for respondent.

Mr. Edward J. Ennis filed a brief on behalf of the American Civil Liberties Union, as *amicus curiae.*

[fol. 94] Before BAZELON, Chief Judge, PRETTYMAN, Senior Circuit Judge, and DANAHER, Circuit Judge.

PRETTYMAN, *Senior Circuit Judge*: Petitioner is before the court seeking to have set aside an order of the Subversive Activities Control Board issued June 27, 1960,

requiring it to register with the Attorney General as a Communist-front organization pursuant to the provisions of the Internal Security Act, Section 7.[1] On January 8, 1962, after a petition for review had been filed, this court remanded to the Board for purposes not now relevant. The Board issued its Report on Reconsideration on March 18, 1962. That report and the original report of the Board are now before us. Oral argument was heard in October of 1962.

The American Committee for Protection of Foreign Born was organized in 1932 or 1933 and has its main offices or headquarters in New York City. Its activities have centered around "the foreign born with considerable effort and attention given to the legal and propaganda defense of individuals involved in deportation and denaturalization cases." Many of those defended have been members of the Communist Party, and many have not been. The Board also found that the Communist Party has a "continuing policy" in this area. The Board said:

> "The aims and purposes of the Party have been: (a) to seek to prevent the denaturalization and deportation of officers and members of the Party, and (b) to win the goodwill of the foreign born and obtain from them adherents to and support for the Party and for Party programs. The record also shows that it was the policy of the Communist Party to carry out and advance these aims and purposes through and by an organization separate from and not a part of the Communist Party as such."

[fol. 95] The Board concluded that petitioner operates to serve this twofold purpose of the Communist Party and is substantially "directed, dominated, or controlled by the Communist Party of the United States, a Communist-action organization * * * and * * * primarily operated for the purpose of giving aid and support to such Communist-action organization."

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[1] 64 STAT. 987, 989, as amended, 50 U.S.C. § 782(4).

In reaching the result required by the evidence in this case, we need not attempt to resolve the constitutional questions advanced by petitioner. However, in determining whether there is a "preponderance" of evidence to support the Board's conclusions, it must be kept in mind that the Subversive Activities Control Act requires the Attorney General to make a particular showing as to Communist organizations before the requiring of registration can be constitutionally upheld. "'So long as no more is involved than exercise of the rights of free speech and free assembly, an [organization] is immune to such a restriction.' [Citing *Thomas* v. *Collins*, 323 U.S. 516, 540.] The present statute does not, of course, attach the registration requirement to the incident of speech, but to the incidents of foreign domination and of operation to advance the objectives of the world Communist movement—operation which, the Board has found here, includes extensive, long-continuing organizational, as well as 'speech,' activity."[2] "The statute is not applied like a spray to all persons who hold certain ideas or who may have become tainted by brushing against ideas or people."[3] [fol. 96] In an earlier opinion in this series of cases,[4] this court has said that, before it will sustain a finding that an organization is controlled and dominated by the Communist Party, the Government must present proof which is "specific, direct and timely." "[T]he Communist Party appears, and was declared by the Congress, [citing Sec. 2(15), Subversive Activities Control Act of 1950, 64 Stat. 989, 50 U.S.C. § 781(15)], to be a rigidly disciplined, well-organized, active organization. Its management is real, not happenstance, and its representation is definite, not

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[2] Communist Party of the United States v. Subversive Activities Control Board, 367 U.S. 1, 90 (1961).

[3] Washington Pension Union v. Subversive Activities Control Board, —— U.S. App. D.C. ——, 322 F.2d 398 (D.C. Cir. 1963).

[4] National Council of American-Soviet Friendship v. Subversive Activities Control Board, —— U.S. App. D.C. ——, 322 F.2d 375 (1963).

whimsical. Mere membership does not establish active management or responsible representative capacity."[5]

In recent months the Supreme Court itself has inquired into the adequacy of proof of Communist infiltration before it would sanction a legislative inquiry into the membership lists of the involved organization. "The strong associational interest in maintaining the privacy of membership lists of groups engaged in the constitutionally protected free trade in ideas and beliefs may not be substantially infringed upon such a slender showing as here made by the respondent. While, of course, all legitimate organizations are the beneficiaries of these protections, they are all the more essential here, where the challenged privacy is that of persons espousing beliefs already unpopular with their neighbors and the deterrent and 'chilling' effect on the free exercise of constitutionally enshrined rights of free speech, expression, and association is consequently the more immediate and substantial."[6]

The Supreme Court has also spoken on the right of an [fol. 97] organization and "its members and lawyers to associate for the purpose of assisting persons who seek legal redress for infringements of their constitutionally guaranteed and other rights." In this regard the Court said:

> "[L]itigation * * * is a means for achieving the lawful objectives of equality of treatment by all government, federal, state and local, for the members of the Negro community in this country. It is thus a form of political expression. Groups which find themselves unable to achieve their objectives through the ballot frequently turn to the courts. Just as it was true of the opponents of New Deal legislation during the 1930's, for example, no less is it true of the Negro minority today. And under the conditions of modern government, litigation may well be the sole practicable avenue open to a minority to petition for redress of grievances."[7]

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[5] *Idem.*

[6] Gibson v. Florida Legislative Comm., 372 U.S. 539, 555-557 (1963).

[7] N.A.A.C.P. v. Button, 371 U.S. 415, 428-430 (1963).

With these principles in mind we turn to the case at bar. As we have noted, our petitioner devotes "considerable effort and attention * * * to the legal and propaganda defense of individuals involved in deportation and denaturalization cases." Indeed this appears to be its main interest and activity. It has a constitution. It has officers and honorary officers. It holds an "Annual Conference" each year, to which any and all members of the public are welcome and in which they may participate upon payment of the registration fee. It has an executive committee, elected by the annual conference, and it has full-time, paid administration officers. It has been in continuous operation since its organization. It seems clear, and the Board found, that the active directing force in the Committee was its executive secretary, Abner Green. Second to him was his assistant, Harriett Barron. The evidence was overwhelming that the board of directors and the annual conferences were perfunctory, [fol. 98] as such boards and conventions so frequently are in unincorporated associations, and the real direction and control were in the hands of the chief executive officer. It was clearly established that Green and Barron were members of the Communist Party.

We have discussed at length the meanings of various provisions of the Internal Security Act of 1950.[8] We will not repeat that discussion here.

We inquire first into the management, or control, interrelationship of the Committee and the Communist Party. This is clause (A) of the statutory definition of a Communist front.[9]

It is not claimed, and the Board did not find, that Green or Barron were active in the management or control of

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[8] Labor Youth League v. Subversive Activities Control Board, —— U.S. App. D.C. ——, 322 F.2d 364 (1963); National Council of American-Soviet Friendship v. Subversive Activities Control Board, —— U.S. App. D.C. ——, 322 F.2d 375 (1963); Veterans of the Abraham Lincoln Brigade v. Subversive Activities Control Board, —— U.S. App. D.C. ——, —— F.2d —— (1963).

[9] Sec. 3(4)(A), 64 STAT. 989, 50 U.S.C. § 782(4)(A).

the Party. But the first "criterion" in the statute[10] includes also the extent to which the active director of the named organization is a representative of the Party. A representative, obviously, need not be a participant in the management of his principal.

There was direct and specific testimony that Green was put at the head of the Committee by authority of the Party. The witness Lautner testified that he and one Landy, both of the Nationality Groups Commission of the Party, were delegated by the Central Committee of the [fol. 99] Party to decide upon the leadership of the Committee for Protection of Foreign Born. They named Green, "and that decision was carried out."

Green on the witness stand flatly contradicted Lautner, but this created a problem of credibility, which was for the trier of the facts who saw and heard both witnesses. The Act provides that findings shall be supported by a preponderance of the evidence, but evidence which is not believed by the trier of the facts has no weight in that scale. Of course the fact-finder cannot be arbitrary. But in the case before us that complication does not appear to be a real one on this point, despite the claims of the Committee.

Green said that he was made head of the organization through election by an annual convention. But convention election of officers already actually selected by one person or a small group of people is a commonplace. The election by the convention does not contradict Lautner's account.

There was direct and specific evidence that Green and Barron attended Party meetings, were advised of Party policies, and carried out those policies in the work of the Committee. In its published account (Political Affairs, Feb., 1951) of its 15th National Convention, the Party recited the advice of W. Z. Foster that the Party not become a "defense organization" but should carry on defense work through "[a] separate permanent non-partisan organization devoted exclusively to this purpose". In the next section of that same publication, the Civil Rights

[10] Sec. 13(f)(1), 64 STAT. 1000, 50 U.S.C. § 792(f)(1).

Congress, hailed as the logical inheritor of the fighting spirit, record and experiences of the I.L.D., and our petitioner Committee, "led by the devoted and indefatigable Abner Green," were coupled for praise, and "all progressives" were called upon to support their work. The witness Lautner, who, as we have said, was a minor Party official, testified that he was elected to the credentials [fol. 100] committee of a conference of the Committee and was put on the executive committee of the Committee.

The evidence is direct and plentiful that the Party took an active part in the organizing of the regional Committees for Protection of Foreign Born, of which there were several. The evidence is ample that the officers of the regional Committees were members of the Party, sometimes minor officers in the Party, such as district directors, and that other such Party officials participated not only in the organization of these Committees but in their programs. It is clear that Green participated in such activities. There is much discussion in this record, and here, as to whether these local groups were autonomous organizations or were integral parts of our petitioner, the national Committee. We think the point is unimportant. It is abundantly clear that, whatever the technicalities may be as to the nature of these unincorporated associations, they were intermeshed with the national group, not only in policies but in operation. The issues of *The Lamp*, the Committee publication, on file here as exhibits, amply prove this situation.

In determining Green's status as a Party representative *vel non* the Board, under the statutory direction, took into consideration the extent to which the Committee supported the Party, was supported by it, and abided its policies; *i.e.*, the other three "criteria" in Section 13(f).

Turning then to these other "criteria", evidence of support of the Committee by the Party, and the identity of the positions and policies of the Party and the Committee, is ample to support the conclusions of the Board on those features. The record is replete with instances in those respects, and they seem to have been continuous from the early 1940's to the time of the hearing before

the Board in 1954. We have no difficulty with these features of the findings.

Whether the Committee was operated primarily to aid [fol. 101] and support the Party, and the extent to which its resources and personnel were used to further or promote the objectives of the Party, which are clause (B) of the statutory definition and the third of the "criteria", pose questions. The Supreme Court has held that "primarily" does not necessarily mean principally; it may mean merely substantially.[11]

The Committee for Protection of Foreign Born (our petitioner) undoubtedly devoted the major portion of its efforts to contesting the deportation of aliens and promoting their naturalization. It furnished counsel and material in court cases in that area, issued statements, made pleas, and in every possible way battled in this behalf. It also fought the Internal Security Act and other statutes and proposed legislation, but the major thrusts of its offensive seem to have been the naturalization and deportation features of those measures. The Committee fought in behalf of many members of the Communist Party. There is some dispute as to the proportion of the persons it aided who were Party members. But there is no dispute as to the fact that it enlisted in behalf of many non-Communists.

Obviously the naturalization of its members and the prevention of their deportation were direct aims and purposes of the Communist Party. And a more subtle factor is present. The foreign-born constitute one of the likeliest reservoirs of potential disciples for Communism in this country. Many of these people are less fearful of foreign influence or less attuned to the basic concepts of this nation than are their second and subsequent generations. The Party made an official declaration along these lines early in the 1930's. To establish itself as the champion of the foreign-born and to imprint such an image of itself on the public mind would obviously be of major benefit [fol. 102] to the Party. But the protection of the rights of

[11] Board of Governors v. Agnew, 329 U.S. 441, 446 (1947).

the foreign-born is not only a laudable objective; it is a basic one in this country. This is true not only theoretically and philosophically but also historically and factually. What, then, of an organization which vigorously devotes itself to the protection of the rights of all and any foreign-born who seek its help? Is it to be held a Communist front because the ends sought are Communist aims? Of course not. But, if in espousing causes which are Communist objectives an organization does so because of Communist control and direction, is it then a Communist front? To reach an answer to this question we think we must trace the pertinent considerations from their base. The Congress found and declared as a fact that the Communist movement is a world-wide revolutionary movement whose purpose it is, by any means deemed necessary, to establish a Communist totalitarian dictatorship throughout the world. The Supreme Court has told us that we must accept as established facts these findings, and others which we shall recite, of the Congress.[12] The Congress further found that the Communist dictatorship, vested in a foreign country, operates by causing the establishment in various countries of action organizations which are controlled by that foreign power. It has been established by a process of administrative and judicial inquiry in this country that the Communist Party of the United States is such an action organization.[13] The Congress further found as a fact that these action organizations operate to a substantial extent through "fronts", which in most instances are created or used in such manner as [fol. 103] to conceal their true character and purposes, and that a result of this method is to obtain support from persons who would not extend such support if they knew the true purposes of, and the actual nature of, the control and influence exerted upon such "fronts". The Congress also found as a fact that "One device for infiltration by Com-

[12] Galvan v. Press, 347 U.S. 522, 529 (1954); Communist Party of the United States v. Subversive Activities Control Board, 367 U.S. 1 (1961).

[13] Communist Party of the United States v. Subversive Activities Control Board, 367 U.S. 1 (1961).

munists is by procuring naturalization for disloyal aliens who use their citizenship as a badge for admission into the fabric of our society."[14] Upon the basis of these Congressional findings, which, as we have said, we must accept, we evaluate the record before us.

In the foregoing context it is indubitably clear that any laudable, praiseworthy activity which is identified in the public mind with the Communist Party or with Communism, or is so identified in the minds of those being aided by the effort, or is identified as being within the community of policies advocated by the Party, is a benefit to and naturally an objective of the Party. The identification of itself with laudable causes would, of course, be a benefit to the Party, as it is to any organization. The identity of its prominent members with such causes is also a worthwhile project for an organization seeking power among the public. More subtle and less effective, but perhaps the only route to public acceptance available to a clandestine operator is to create a picture of a community of interest between its own causes and interests which bear public acclaim. This is indeed a subtle business, but if effectuated it would be a real and substantial aid and support to the Party. This is one of the theses of the statute. The Congress declared that the Communist movement attracts strength to itself by operating behind a facade of good deeds.

The statute does not seek the registration of an organization devoted to the protection of the rights of the [fol. 104] foreign-born. It seeks the registration of any organization the purpose of which, under control of the Party, by any activity, laudable or otherwise, is to strengthen the power of the Communist Party in this country.

The American Committee, by constant utterances and by its public attitude on issues apart from naturalization and deportation, vigorously identified its cause with causes of the Communist Party. One cannot read its declarations without gaining an impression that the cause of Communists threatened with deportation is the cause of all people

[14] 64 STAT. 989 (1950), 50 U.S.C. § 781 (1).

so threatened and that Communist leaders are leading the effort on behalf of all.

The official organ of the Committee was *The Lamp*, published monthly in New York. It reflects the activities of the organization. Copies of issues from March, 1944, to January, 1954, are in the record. This paper carried current accounts of developments in cases and events in which the Committee was interested. It followed the *Harisiades* case and the *Terminal Island Four* case throughout their histories. From time to time it announced new arrests in deportation proceedings—sometimes twenty-five at a time, or an alleged total of some three hundred. It carried small news notes on the progress of deportation cases, the grant or denial of bail, and the results of petitions for habeas corpus and appeals to the courts. It announced conferences and committee meetings, the formation of special defense committees in particular cases, and the publication of booklets on special cases. The meetings of the various area Committees for Protection of Foreign Born were announced in some detail. It appealed for funds and carried strong editorials condemning what it termed "The Deportation Drive". In short, *The Lamp* was a vigorous, well-prepared, constant advocate of the rights of the foreign-born. Some of its extended campaigns were for repeal of the Walter-McCarran Act (its name for the Internal [fol. 105] Security Act of 1950), support of the Lehman-Celler bill, the right to bail in deportation cases, opposition of denaturalization, and the status and problems of Mexican-Americans. From time to time it announced it was currently engaged in as many as 325 deportation cases and more than 40 denaturalization cases. Its total income ran as high as $43,500 and its expenses about that much. Abner Green served a federal prison sentence for refusing to reveal the names of contributors. It carried news about the activities of organizations of nationalities—Hellenic American Brotherhood, for example.

Through all these activities runs a prominent thread of Communist interest. The Committee took vigorous positions in respect to the Gerhardt Eisler affair. Eisler was foreign-born, to be sure, but this was not a natural-

ization or deportation matter; quite the contrary, in fact. The controversy which swirled about Eisler concerned his membership in the Communist Party and his refusal to testify before the House Committee.[15] The provisions of the Internal Security Act which were the targets of the Committee's attacks were those which required the deportation of aliens who were or had been members of the Communist Party. The Committee maintained that these provisions were premised on political opinion and threatened the freedom of all American people to their political opinions. This, of course, is Communist doctrine, but so far as this Government is concerned the point was put at rest by the Congressional findings to which we have referred. The deportation of Peter Harisiades, which the Committee called a test case and opposed with all the resources at its command, was on the ground that he was a [fol. 106] member of the Communist Party.[16] The Internal Security Act is directed also at Fascists and all sorts of totalitarians. But we do not find in this record evidence that the Committee fought in behalf of Fascist aliens. Indeed it expressed a hearty antagonism to adherents of that thesis. The Committee campaigned for repeal of the Smith Act of 1940[17] and in defense of those indicted under it. When, in March of 1952, the Supreme Court ruled on a group of cases involving problems of members of the Communist Party under various sections of the so-called McCarran Act, *The Lamp* said: "In a series of three opinions, the U S. Supreme Court has made far-reaching decisions destroying many of the democratic rights accorded non-citizens and jeopardizing, thereby, the liberties of all Americans, native as well as foreign born. • • • In a statement, the ACPFB [this Committee] declared that the U. S. Supreme Court had deserted its

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[15] Eisler v. United States, 83 U.S. App. D.C. 315, 170 F.2d 273 (D.C. Cir. 1948), *cert. dismissed*, 338 U.S. 883 (1949); 84 U.S. App. D.C. 404, 176 F.2d 21 (D.C. Cir.), *cert. denied*, 337 U.S. 958 (1949).

[16] Harisiades v. Shaughnessy, 342 U.S. 580 (1952).

[17] 54 STAT. 670.

duty to protect the Bill of Rights • • • .” Of the same events *The Worker* (issue of March 16, 1952), an official organ of the Communist Party said:

> “ANOTHER MONDAY—Supreme Court decision day—has passed and another gaping hole has been torn in the Bill of Rights by the war-thirsty Court majority.
>
> “In trampling upon the rights of foreign born non-citizens, the court has destroyed the constitutional rights of foreign-born citizens as well, and threatened the rights of the native born.”

Testimony of Immigration officers was that the “bulk” of the three hundred deportation cases which the Committee at one time said it was defending involved allegations that the persons involved were members of the Communist Party. The terms used by *The Lamp*, the epithets [fol. 107] applied to Government officials and their activities, are in tune with the utterances and attitudes of the Communist Party, expressed by its leaders and its publications.

Then, then, the total picture in this record, viewed in the light of the statutory definition and the supporting “criteria”, is of Abner Green as the directing force in the petitioner Committee, his selection for the post by authority of the Central Committee of the Communist Party, his attendance upon policy meetings of the Party, the vigorous support of him and the petitioner Committee by the Party, the identity of the objectives of the Committee and objectives of the Party, the similarity of Committee policies and Party policies in related areas, the notable Party overtones of Committee expression, and the direct involvement of Party members in a great proportion of the Committee's direct efforts. A Communist front is not declared by the Congress to be an action group; it is declared to be a facade behind which the Party, through designated representatives and control, works to strengthen itself in this country. When all the foregoing considerations are put together it seems to us that the conclusion of the Board that the Committee,

our petitioner here, was a Communist front within the terms of the statute was well founded. In the *Communist Party* case the Supreme Court told us:

> "The existence of direction, domination, or control in each instance is an issue of particular fact. The question whether in the case of a given organization such a compulsion or impulsion arises from the complex of ties which link it to a foreign government or organization that it will, because of those ties alone, adhere in its conduct to decisions made for it abroad, is one which Congress has committed, in the first instance, to an expert trier of fact. * * * Our decision in *Rochester Telephone Corp.* v. *United States*, 307 U.S. 125, is especially apposite here. * * * [W]e said: 'Investing the Commission with the duty of ascertaining "control" of one company by another, Congress [fol. 108] did not imply artificial tests of control. This is an issue of fact to be determined by the special circumstances of each case. So long as there is warrant in the record for the judgment of the expert body it must stand.'" [18]

Petitioner raises other points of law—the decision that the Communist Party is a Communist-action organization is not binding in this proceeding, and the registration provisions of the Internal Security Act are unconstitutional. We have ruled upon those points in other cases, to which we have referred, *supra*. Relying upon them we reject our present petitioner's contentions in those regards.

The order of the Board in this case will be

Affirmed.

BAZELON, *Chief Judge*, dissenting: The Subversive Activities Control Act[1] aims to prevent a world-wide Communist conspiracy from accomplishing its purpose in the

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[18] *Supra* note 13, at 40-41.

[1] 64 Stat. 987 (1950), 50 U.S.C. §§ 781 *et seq.* (1958).

United States. §2(15). Section 3(3) defines "Communist-action organization" as an organization which "(i) is substantially directed, dominated, or controlled by the foreign government or foreign organization controlling the world Communist movement referred to in section 2 of this title, and (ii) operates primarily to advance the objectives of such world Communist movement . . . ." Those objectives are "the overthrow of existing government by any means necessary and the establishment in its place of a Communist totalitarian dictatorship." *Communist Party* [fol. 109] v. *Subversive Activities Control Board*, 367 U.S. 1, 89 (1961).

Section 3(4) of the Act defines "Communist-front organization" as an organization that "(A) is substantially directed, dominated, or controlled by a Communist-action organization, and (B) is primarily operated for the purpose of giving aid and support to a Communist-action organization, a Communist foreign government, or the world Communist movement . . . ." The Communist Party is a Communist-action organization. But I think the Board has not shown that the American Committee for Protection of Foreign Born "(B) is primarily operated for the purpose of giving aid and support" to the Communist Party.[2] "The findings of the Board as to the facts, if supported by the preponderance of the evidence, [are] conclusive." §14(a). But what the Act means is a question of law for the court.

Congress might have made Communist control the sole test of a "Communist-front organization." But Congress chose to include in the definition a purpose element as well as a control element. Also, Congress chose not to out-

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[2] Although Congress juxtaposed the word "substantially" in § 3(4)(A) with "primarily" in § 3(4)(B), the majority nonetheless says that "primarily" means "substantially." Majority Opinion p. 9. To support this construction of the Subversive Activities Control Act, reference is made to the Banking Act of 1933 where, in a widely different context, the word "primarily" appears alone. I think the word "primarily" in § 3(4)(B) must be given its ordinary dictionary meaning of "principally" or "chiefly."

I have not considered the Board's finding that the American Committee "(A) is substantially directed, dominated, or controlled" by the Communist Party.

law the Communist Party or prohibit all of its activities. Besides the objectives of overthrowing the government and establishing a dictatorship, the Party has innocent [fol. 110] objectives and innocent activities. These are known to include, *e.g.*, promoting public school integration. They have been shown to include contesting the deportation of aliens and promoting their naturalization. Congress did not say, and I think Congress did not mean, that a "purpose of giving aid" to a Communist-action organization in promoting an innocent objective makes an organization which it controls a Communist-front organization. I think the word "purpose" in §3(4) should be read in connection with the word "objectives" in §3(3). This context indicates that "purpose" is intended and should be understood to be limited to the purpose of aiding a Communist-action organization to advance the objectives of the world Communist movement.

The way in which the Act deals with Communist-front organizations confirms this understanding. The Act does not stop with requiring these organizations to register and furnish information. Most of the severe penalties prescribed in §§5(a) and 6(a) of the Act apply not only to members of Communist-action organizations but to members of Communist-front organizations also.[3] These sections of the Act make it "unlawful" for members of either sort of organization to hold any non-elective office or employment under the United States, or to be employed by any labor organization, or to use a passport, or even to apply for a passport. The validity of these severe penalties is not now before us. But in my opinion their severity shows that Congress had no intention of inflicting them on otherwise innocent people merely because of membership in otherwise innocent organizations that the Communist Party uses to advance an innocent aim.

[fol. 111] Moreover a limited interpretation of the term Communist front is necessary if serious constitutional

[3] Section 5(a)(1)(D) prohibits employment in defense facilities of members of Communist-action organizations only. See also §§ 6(b), 7(d)(4), and 8.

questions are to be avoided. The *Communist Party* case determines that constitutional rights including freedom of speech are not violated by enforcing the registration and information requirements of the Act against organizations that are primarily operated for the purpose of overthrowing the government and establishing a totalitarian dictatorship. 367 U.S. at 104-05. But it is quite doubtful that these same requirements may constitutionally be enforced against an organization that is not shown to have the same or similar purposes. It is even more doubtful that the severe penalties of §§5(a) and 6(a) may constitutionally be inflicted on the members of such an organization. Although the last question is not now before us, it is bound to arise if "Communist-front organization" is finally given the broad interpretation which this court now gives it.

Activities protected by the first amendment cannot be restrained because of association with an organization some of whose activities are not so protected. In *De-Jonge* v. *Oregon*, 299 U.S. 353 (1937), the Supreme Court held that although the Communist Party was engaged in unlawful activities, punishing a member for helping the Party conduct a meeting that had only lawful purposes violated his constitutional right of free speech. The Court said:

> The holding of meetings for peaceable political action cannot be proscribed. . . . The question, if the rights of free speech and peaceable assembly are to be preserved, is not as to the auspices under which the meeting is held but as to its purpose; not as to the relations of the speakers, but whether their utterances transcend the bounds of the freedom of speech which the Constitution protects. [299 U.S. at 365.]

In *Scales* v. *United States*, 367 U.S. 203 (1961), the Court [fol. 112] sustained the constitutionality of a broad clause of the Smith Act directed against members of the Communist Party by interpreting the clause as intended to apply only to those members who intend to engage in or further the Party's sinister activities. The Court said: "Thus the

member for whom the organization is a vehicle for the advancement of legitimate aims and policies does not fall within the ban of the statute . . . ." 367 U.S. at 229.[4]

This court does not directly express a conclusion with regard to the Committee's purpose. It does say that the Board's conclusion that the Committee "was a Communist front within the terms of the statute was well founded." Majority Opinion p. 15. But the court's opinion is devoted almost entirely to the subject of control by the Communist Party. The otherwise lawful purposes of an organization do not become unlawful simply because it is controlled by an organization that has the same lawful purposes together with other purposes that are unlawful. Neither the Board nor the court says the preponderance of the evidence supports a conclusion that the Committee is primarily operated for the purpose of aiding the Communist [fol. 113] Party to advance the world Communist movement's objectives of overthrowing the government and establishing a totalitarian dictatorship. It seems to me clear that the preponderance of the evidence does not support such a conclusion. I would therefore set aside the Board's order.

I think the government failed to prove by a preponderance of the evidence that the Committee is primarily operated for the purpose of giving aid and support to the Communist Party in advancing *any* objective, even an in-

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[4] Cases such as *American Communications Ass'n* v. *Douds*, 339 U.S. 382 (1950); *Killian* v. *United States*, 368 U.S. 231 (1961); *Galvan* v. *Press*, 347 U.S. 522 (1954); *Rowoldt* v. *Perfetto*, 355 U.S. 115 (1957); *Gastelum-Quinones* v. *Kennedy*, 374 U.S. 469 (1963), are not to the contrary. The latest expression of Supreme Court doctrine makes plain that certain civil sanctions may be imposed based on evidence of a "meaningful association" with the Communist Party characterized by awareness of its "distinct and active political nature"; but such sanctions may not rest on evidence of an "association" with the Party—much less with one of its alleged front organizations—characterized by a belief that it is "a group solely trying to remedy unsatisfactory social or economic conditions, carry out trade union objectives, eliminate racial discrimination, combat unemployment or alleviate distress and poverty." *Gastelum-Quinones* v. *Kennedy*, *supra* at 473-74.

nocent one.[5] As the court points out, both the American Committee and the Communist Party attacked and attempted to change our government's policy toward the foreign born, and defended individuals, many of them Communists, who were affected by the policy. But as the court also says, the Committee "enlisted in behalf of many non-Communists." Majority Opinion p. 9. I think the evidence does not show that the Committee was primarily operated for the purpose of giving aid to the Party in advancing any objective, rather than for the purpose of advancing the Committee's own objectives which the Party shared. To treat the Party's control of the Committee, and the overlapping of their memberships and objectives, as proving that the Committee was primarily operated for the purpose of aiding the Party would read the element of purpose out of the Act and make it unnecessary for the government to prove anything more than control.[6]

[fol. 114] Our first opinion in *Communist Party* v. *Subversive Activities Control Board*, 96 U.S.App.D.C. 66, 109-10, 223 F.2d 531, 574-75 (1954), states that the Board had found secret practices of the Party to have been engaged in for the purpose of concealing the Party's true nature and promoting its objectives, whereas the Party contended its purpose in using the secret practices had been to protect Party members from oppression. We said:

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[5] The Board concluded that the Committee operates to serve a two-fold purpose of the Party: "(a) to seek to prevent the denaturalization and deportation of officers and members of the Party, and (b) to win the goodwill of the foreign born and obtain from them adherents to and support for the Party and for Party programs." Report and Order of the Board at 21 (June 27, 1960).

[6] Although conduct may sometimes show purpose, I think the Committee's ambiguous conduct in this case does not support an inference of any purpose other than protection of the foreign born. In the *Communist Party* case, on the other hand, the proof included "long-continued, totally unwavering identity of policy lines" between the Party and the Soviet Union, including identical positions on "forty-five major international issues during thirty years." 367 U.S. at 59, 61.

> This question, whether the secret practices of the Party are for the purpose of protecting the liberties of the members or are for the purpose of promoting the objectives of the Party, is a nebulous one. The two purposes may well overlap. In so far as protection of its members from public identification as Communists also promotes the objectives of the Party, both purposes could exist together. In a doubtful situation such as that on this point, we strike the finding as to purpose. [96 U.S.App.D.C. at 110, 223 F.2d at 575.]

I think we should strike the finding as to purpose in the present case. In the former case, the finding as to purpose was a subsidiary one and we affirmed the Board's order without it. In the present case, the American Committee's purpose is a crucial question. But this should not lead us to abandon the principle we formerly adopted.

When the control and the purpose that show an organization to be a Communist front are both established, its lawful activities do not insulate the organization and its members from the sanctions directed against fronts. But [fol. 115] lawful activities cannot, in my opinion, make an organization a front.[7] A Communist-front organization is like a man with a false beard. The Subversive Activities Control Act directs us to remove the beard but not without proof that it is false.

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[7] This court illustrates what seems to me its misunderstanding of the law by characterizing as "of course . . . Communist doctrine" the American Committee's position that laws requiring deportation of present or former Communist aliens "were premised on political opinion and threatened the freedom of all American people to their political opinions." Majority Opinion p. 13. This view of the deportation provisions is held by many loyal Americans. See also the Board's similar argument:

> "Even Abner Green's testimony that in defending Eisler in the deportation proceedings [the American Committee] was supporting the Bill of Rights, was consistent with the position of the Communist Party that 'To advocate action against Communists is to destroy the Bill of Rights.'" Report and Order of the Board at 29.

[fol. 116] [File endorsement omitted]

IN THE UNITED STATES COURT OF APPEALS

FOR THE DISTRICT OF COLUMBIA CIRCUIT

No. 15,960—September Term, 1963.

AMERICAN COMMITTEE FOR PROTECTION OF FOREIGN-BORN,
Petitioner,

v.

SUBVERSIVE ACTIVITIES CONTROL BOARD, Respondent.

On Petition for Review of Order of the Subversive Activities Control Board.

Before: Bazelon, Chief Judge, Prettyman, Senior Circuit Judge, and Danaher, Circuit Judge.

JUDGMENT—December 17, 1963

This case came on to be heard on the record from the Subversive Activities Control Board, and was argued by counsel.

ON CONSIDERATION WHEREOF, it is ordered and adjudged by this court that the order of the Subversive Activities Control Board on review in this case is affirmed.

Per Senior Circuit Judge Prettyman.

Dated: Dec. 17 1963

Separate dissenting opinion by Chief Judge Bazelon.

[fol. 119] Clerk's Certificate to foregoing transcript (omitted in printing).

[fol. 610]

BEFORE THE SUBVERSIVE ACTIVITIES CONTROL BOARD

Docket No. 109-53

HERBERT BROWNELL, JR., Attorney General of the United States, Petitioner,

Petitioner,

vs.

AMERICAN COMMITTEE FOR PROTECTION OF FOREIGN BORN, Respondent.

Transcript of Hearing—June 24, 1955

Room 111, Lafayette Building,
811 Vermont Avenue, N. W.,
Washington, D. C.

The above-entitled matter came on for further hearing, pursuant to recess, at 10:00 o'clock a.m.

Before:

EDWARD M. MORRISSEY, *Examiner.*

APPEARANCES:

F. KIRK MADDRIX and MALCOLM F. KNIGHT, in behalf of the Petitioner.

JOSEPH FORER, 711 — 14th Street, N. W., Washington, D. C., and

ABNER GREEN, 23 West 26th Street, New York City, New York, in behalf of the Respondent.

[fol. 721] JAMES W. GLATIS was called as a witness on behalf of the Petitioner, and, having been first duly sworn, was examined and testified as follows:

Direct examination.

By Mr. Knight:

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[fol. 743] Q. In connection with that work in Massachusetts for front organizations of the Communist Party, did you at any time learn of an organization called the American Committee for Protection of Foreign Born?

A. Yes, sir, I did.

Q. When was that, sir, to the best of your recollection?

[fol. 744] A. I first heard of the American Committee for Protection of Foreign Born in 1950 and subsequently to that time.

Q. Would you describe the circumstances under which you first learned of its existence?

A. I attended a meeting which was described as the founding meeting of the New England Committee for the Protection of Foreign Born, which was held in the hall located on, I would say, the 400 block of Tremont Street in Boston, Massachusetts.

Q. Mr. Glatis, did you attend this founding meeting of the New England Committee for Protection of Foreign Born?

A. Yes, sir, I did.

• • • • • • •

[fol. 745] Q. Who was present, Mr. Glatis?

A. Present at this founding meeting of the New England Committee for Protection of Foreign Born was Dave Rosenberg, Secretary of the Communist Party, District No. 1; Nat or Nathaniel Mills; Ruth Hillsgrove—

Mr. Forer: May we have the spelling of that?

The Witness: H-i-l-l-s-g-r-o-v-e.

Louis Marks, M-a-r-k-s; Abner Green.

By Mr. Knight:

Q. What was the last name, sir?

A. Abner Green.

Q. By the way, do you see Mr. Abner Green present in the hearing room, Mr. Glatis?

A. Yes, sir.

Q. Could you identify him for us, point him out for us, please?

A. The gentleman seated next to Mr. Forer, on his left.

• • • • • • •

[fol. 751] Q. Mr. Glatis, as a result of this meeting at which Abner Green was in attendance, Dave Rosenberg and others whom you have named, was there actually established an organization known as the New England Com-
[fol. 752] mittee for Protection of Foreign Born?

• • • • • • •

The Witness: Yes, sir. The principal speaker was Abner Green, who described at some length the activity of the American Committee for Protection of Foreign Born, outlined some of the cases that were being handled by the American Committee for Protection of Foreign Born, stressed the need for a New England Committee for Protection of Foreign Born, also stressed the necessity for funds to be collected and the organization that was necessary to set up such a New England Committee for Protection of Foreign Born.

Abner Green also stated at the time that the American Committee for Protection of Foreign Born would work together with the New England Committee for Protection of Foreign Born and assist them in every manner in helping the New England committee to work in the same manner as the American Committee for the naturalized American citizens, as he stated, who were being deprived of their civil liberties.

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[fol. 976] June 29, 1955

JOHN LAUTNER was called as a witness on behalf of the Petitioner and, having been first duly sworn, was examined and testified as follows:

Direct examination.

By Mr. Maddrix:

Q. Please state your full name.
A. My name is John Lautner, L-a-u-t-n-e-r.
Q. At the present time you are residing here in Washington, D. C.?
A. I am not giving my address. I have a mailing address, and that is the Department of Justice.
Q. I say, you are, though, in Washington, D. C.
A. At this moment, yes.
Q. Where were you born and when, Mr. Lautner?
A. I was born in Hungary on the 1st of January in 1902.

Mr. Morrissey: Can you hear?
[fol. 977] Mr. Forer: I am having great difficulty hearing.
Mr. Morrissey: Will you speak louder, Mr. Lautner.
Mr. Forer: May we have that last answer?

(Whereupon, the last answer was read by the reporter.)

By Mr. Maddrix:

Q. When did you first come to the United States?
A. When I was about 16 months old—
Q. How long did you stay?
A. —in 1903. I stayed until the age of six, when I went back with my parents to Hungary, and I came back in 1920.

Mr. Forer: Excuse me a moment. Was that late date 1920?
Mr. Maddrix: 1920.

By Mr. Maddrix:

Q. Will you tell us a little bit about your formal education?

A. I have public school, high school, and a year and a half in teachers college.

Q. Where were your studies pursued?

A. In Hungary.

Q. All in Hungary?

A. Yes.

Q. Are you at the present time a citizen of the United States?

[fol. 978] A. Yes.

Q. When were you made a citizen?

A. In 1926.

Q. Where was that?

A. In Youngstown, Ohio, in the Common Pleas Court of Judge Lyons.

Q. Were you ever a member of the Communist Party?

A. Yes.

Q. Where did you join?

A. In New York City in 1929.

Q. How long did you remain in the Party?

A. With the exception of the time I was in the Army during the war, up to the 17th of January 1950.

Q. What was the first Communist Party unit to which you were assigned, if you recall?

A. It was known as the Yorkville Unit, the Harlem Section of the Communist Party, New York City.

Q. Did you hold any official positions in the Communist Party during the many years in which you were a member of that organization?

A. Yes.

Q. I want you, if you will, Mr. Lautner, to detail in chronological order, giving the years, the various positions which you held in the Communist Party.

A. When I joined, I was a member for a while. In 1930, [fol. 979] in the spring, I was assigned to a Party training school in New York.

After graduation from that school around the end of June in 1930, I was assigned to Detroit, Michigan, as the district secretary of the Hungarian National Bureau of the Communist Party. I functioned in that capacity up until the spring of 1931.

In addition to that, for about 7 or 8 months I was also secretary of the District Control Commission of the Communist Party in Michigan.

Q. Will you hesitate there to describe what this District Control Commission was?

A. The District Control Commission was the disciplinary arm of the Communist Party. It was to develop vigilance in the ranks of the Communist Party against infiltration of anti-Party elements of all sorts. It was to hear disciplinary cases and make decisions. It was to safeguard the Marxist-Leninist purity of the Communist Party in that district.

Q. That brings us up to 1931, does it?

A. No. That brings us up to the spring of 1931. I was in Canada for about 11 months—

Mr. Forer: Excuse me. How many months was that?

The Witness: About 11 months.

—as Secretary of the Hungarian National Bureau there, and I was editing a weekly Communist paper there.

[fol. 980] From there I was reassigned—

By Mr. Maddrix:

Q. Will you let me interrupt here. You were in Canada?

A. Yes.

Q. Do you mean that this position as Secretary of the Hungarian National Bureau was a Canadian bureau of the Communist Party?

A. It was a bureau of the Canadian Communist Party, that is correct.

Q. May I ask you how you were assigned to Canada?

A. By the Org Commission, the Organization Commission of the C.P.U.S.A., the Communist Party of the United States.

Q. Continue, please.

A. In the early spring of 1932, I was reassigned to Cleveland, Ohio, as District Secretary of the Hungarian National Bureau in the Ohio District of the Communist Party, and I was one of the editors of the Hungarian Communist daily paper in Cleveland, Ohio.

Q. Who assigned you to Cleveland, Ohio?

A. The Org Bureau of the Communist Party, on the recommendation of the National Hungarian Bureau of the Communist Party.

Q. Will you explain for the Chairman here what the Org Bureau was?

A. The Org Bureau is a subcommittee of the Central [fol. 981] Committee of the Communist Party that plans all the campaigns and translates all the decisions of the Central Committee into activities in the Communist Party, and gives direction and guidance in the name of the Central Committee for all these activities in the Communist Party.

Mr. Forer: Just a moment.

As I understand the witness' answer to what the Org Bureau of the Communist Party is, the answer was in the present. His previous testimony related to the spring of 1932. Certainly there has been no qualification so the witness can testify what, if any, is the Org Bureau of the Communist Party as to the present. Unless qualifications are laid to establish that he is competent to testify on this subject as of the present, I move that the answer be stricken.

Mr. Morrissey: Your testimony was relative to 1932 in the description you have given?

The Witness: That is correct.

Mr. Forer: That satisfies my point.

By Mr. Maddrix:

Q. Do you know what the Org Bureau was from 1932 to 1950, when you got out of the Party?

A. There was no such thing from 1932 to 1950. There was a redesignation of names in the Communist Party, the various committees.

For example, the Central Committee in the later years [fol. 982] was known as the National Committee. The Pol Bureau or Political Bureau of the Communist Party was known as the National Board. The Org Bureau was later on known as the Org Commission and remained as such, Organizational Commission.

There was a process of Americanization in redesigning names in the Communist Party. So, therefore, there is that revolutionary process in these names.

Q. While you were in Cleveland, did you hold any other position except editor of the Hungarian Communist Party newspaper?

A. Yes. I organized a school over there, a Party school, and also I was one of the editors of the Hungarian daily Communist paper in Cleveland, Ohio, called the Ej Elore.

Shall I go on?

Q. Continue.

A. I functioned up until the latter part of 1932. After I finished this school over there, after the school graduated, I left for New York.

For a while I was working with my dad out in Ridgewood, New Jersey. He was a contractor out there. I worked with him. I took a part-time assignment from the Party on the Language Department of District 2 of the Communist Party.

In 1933, I received an assignment as section organizer of the Communist Party in New York City, in Section 18, [fol. 983] and I functioned in that capacity up until April 1936.

In 1936, I was reassigned as district organizer of the Communist Party for the State of West Virginia. I functioned in that capacity until the end of 1940.

At the beginning of 1941, I went to a national training school of the Communist Party in New York. After graduation from that school, I was assigned to the Nationality Groups Commission of the Communist Party, and secretary of the Hungarian National Bureau. I functioned in those capacities up until November 1942.

In addition to that, for about five months or six months I was also National Secretary of the Hungarian Section of the International Workers Order. I was drafted in 1942, November, into the Army. I served up until June 1945.

I was in Psychological Warfare during the war. I was 25 months overseas.

Upon my return, I was again assigned to the Nationality Groups Commission of the Communist Party.

Mr. Forer: What?

The Witness: Nationality Groups Commission of the Communist Party, and Secretary of the Hungarian National Bureau of the Communist Party.

I took sick at the end of 1945, and then around the summer of 1946, I was again assigned in charge of the Building Trades of the Communist Party in New York.

[fol. 984] I functioned in that capacity until about March 1947. In March 1947, for a few months I was in the concentration region of New York on the waterfront, in the Chelsea area.

In May 1947—

By Mr. Maddrix:

Q. What type of job did you have on the waterfront?

A. At that time, we were reorganizing the whole Party apparatus in New York based on the decisions of the 1945 convention to institute and put into effect a concentration policy. On that basis we reorganized the whole organizational structure in Manhattan. We established regions, six regions, in Manhattan.

I was in charge of one of these regions for a few months there.

Q. What I am trying to develop is whether or not these were regions of the Communist Party.

A. They were.

Q. All right.

A. Then in May 1947, I became the head of the New York State Review Commission of the Communist Party, and in 1948, September, I became a member of the National Review Commission of the Communist Party, and I functioned in both of these capacities up until I left the Communist Party on the 17th of January, 1950.

[fol. 985] In addition to this, I was attending training schools, and I taught in Party schools from time to time, particularly in parts of 1946, 1947, and parts of 1948. The subject matters that I taught were Marxism-Leninism, political economy, and Party organization and Party structure.

I attended plenary sessions of the Central Committee and National Committee of the Communist Party in the years

1936, '37, '38, '39, '40, '41. I attended national conventions of the Communist Party in 1936, '38, and '42, '45, and '46.

As briefly as possible, that covers my Party activities.

Q. Let me ask one or two questions. Please explain what you meant when you used the word "plenary" sessions.

A. Plenary sessions of the Central Committee or the National Committee were held twice a year. They were enlarged National Committee meetings or Central Committee meetings of the Party, to which district organizers and individual Party leaders were invited, in addition to the National Committee itself.

Q. Will you also explain for the Chairman what the functions and duties were of the New York State Review Commission of the Communist Party?

Mr. Forer: Just a moment.

As I understand it, this is during the time that he was [fol. 986] a member of it?

Mr. Maddrix: This is during 1947 to January 1950.

The Witness: The Review Commission was the old Control Commission of the Communist Party, with specific responsibility to safeguard the Marxist-Leninist purity of the Communist Party, to develop and increase vigilance in the ranks of the Communist Party against infiltration of anti-Party elements, to hear disciplinary cases, to review disciplinary cases that were heard and decided upon in lower organizations of the Communist Party.

These were, in the main, the functions of the Review Commission of New York State in those years.

By Mr. Maddrix:

Q. Would those same duties apply to the National Review Commission of the Communist Party, except on a different scale?

A. Yes, and in addition to that, to build State Review Commissions in the weaker districts where they hadn't established Review Commissions yet.

Q. I think you told us something about being connected with the Psychological Warfare while you were serving in our Armed Forces. Let me ask, did you have any other

special training while in the Service which you have not mentioned?

A. Yes. I am a graduate of the War Department Military Intelligence at Camp Ritchie, Maryland.

[fol. 987], Mr. Forer: Excuse me a moment. I didn't quite catch that answer. "I am a graduate of the War Department"?

Mr. Morrissey: Read it back.

(Whereupon, the last answer was read by the reporter.)

By Mr. Maddrix:

Q. What do you mean by the fact that you attended the War Department's Military Intelligence, Mr. Lautner?

A. That was my training that I got in the Army. I was assigned to the school over there, and I graduated from that school.

Q. Then there was a school, a Military Intelligence school?

A. That is right.

Q. During your connection with the Communist Party, did you become acquainted with an organization known as the American Committee for Protection of Foreign Born?

A. Yes.

Q. When did you first learn of its existence?

Mr. Forer: Just a moment. I want to object to this testimony on the ground that since, as I understand it, the question relates to the time he was a member of the Communist Party, and since he left the Communist Party on January 17, 1950, which is months before the Act was enacted, the question relates to a period which is of no relevance in this proceeding because it obviously relates to a [fol. 988] time before the enactment of the McCarran Act. For that reason I object to the testimony as too remote.

Mr. Morrissey: The objection will be overruled.

Mr. Maddrix: Is there a question pending?

(Whereupon, the pending question was read by the reporter.)

The Witness: In the late 1939's, in various—

Mr. Forer: Just a moment. The question has been answered.

By Mr. Maddrix:

Q. Under what circumstances?

A. In the Communist Party organization from time to time the question of giving aid and support—

Mr. Forer: Oh, now.

The Witness: —for the Protection of the Foreign Born came down in the form of instructions. It was raised at committee meetings, at section organizers' meetings. I used to get district organizers in West Virginia for the Protection of the Foreign Born. In that way it was brought to the attention of Party functionaries in the Communist Party.

Mr. Forer: Just a moment.

I move to strike that answer on the following grounds:

In the first place, it is not responsive to the question.

[fol. 989] In the second place, it seems to deal with an extremely remote period.

In the third place, it is just a vague generalization, impossible to cross-examine on, to the effect that he heard it at various times and places in the Communist Party. There has been no statement as to time, place, what, where, when, and so forth.

I think that that kind of testimony is of no value, is immaterial, irrelevant.

Finally, I think it is incompetent, because whatever he heard in the Communist Party is not binding on the Respondent and is hearsay.

Mr. Morrissey: The motion will be denied.

The Witness: I didn't finish.

By Mr. Maddrix:

Q. Finish, Mr. Witness.

Mr. Forer: I am sorry, Mr. Maddrix.

The Witness: In the spring of 1942 or thereabouts, while a member of the Nationality Groups Commission of the

Communist Party, we were assigned to make a decision as to personnel in the Protection of the Foreign Born.

Mr. Forer: Wait a minute.

The Witness: I didn't finish my answer.

Mr. Forer: I want to interrupt at this moment.

Mr. Morrissey: Are you objecting?

[fol. 990] Mr. Forer: Yes, because, Mr. Chairman, the question was, "Under what circumstances did you learn of the existence of the American Committee for Protection of Foreign Born?" and now he is going on with a very long narration about decisions, and so forth and so on. The question is being treated as if Mr. Maddrix had said, "Tell us what you know about the American Committee for Protection of Foreign Born," and that is all. That is not a question-and-answer type of proceeding.

Mr. Maddrix: I will ask him the question.

Mr. Morrissey: Will you reframe your question, Mr. Maddrix?

Mr. Maddrix: I don't have any to reframe, because I think I have an answer to the previous one, but I will pose a new one if it is all right.

Mr. Morrissey: That is all right. You may proceed.

By Mr. Maddrix:

Q. Did you know in the year 1942—we will pinpoint that year—a man by the name of Abner Green?

A. Oh, yes.

Q. Do you see him here in the room today?

A. Yes.

Q. Where is he?

A. He is sitting at the counsel table there.

Q. In 1942, were you holding any official position in the [fol. 991] National Communist Party of the United States?

A. Yes.

Q. What was that position?

A. I was a member of the Nationality Groups Commission of the Communist Party.

Q. Did you have occasion to come in contact with Mr. Green during that year 1942?

A. Yes.

Q. I want you to tell the Chairman all the circumstances surrounding that contact.

Mr. Forer: Wait a minute. All the circumstances surrounding that contact? I think that question is too general and too vague, and I object.

Mr. Morrissey: The objection will be overruled.

The Witness: Avro Landy, who was the secretary—

By Mr. Maddrix:

Q. We want to get the spelling on the record.

A. A-v-r-o, L-a-n-d-y.

—who was secretary of the Nationality Groups Commission, and myself, were assigned, the two of us were assigned to listen and to make a decision in relation to a problem that arose in the Protection of the Foreign Born leadership between Abner Green and Irving Novak, who was the leader of that organization at that time.

Q. Who was the leader at that time?

[fol. 992] A. Novak.

After listening to both sides, it was clear that a very unhealthy working relationship existed between the two, a clash of personalities, and that type of situation, and we decided, the Nationality Groups Commission, to remove Novak and to put Abner Green as head of the organization, the American Committee for Protection of Foreign Born, and that decision was carried out.

Mr. Forer: Just a moment.

Is it clear on the record, Mr. Chairman, that I have a standing objection to this witness' testimony about the American Committee for Protection of Foreign Born during the time that he was in the Party, on the grounds of remoteness, because it is before the Act? I don't want to have to keep popping up.

Mr. Morrissey: You made an objection.

Mr. Forer: May I have that as a standing objection?

Mr. Morrissey: No. I would rather you would interpose your objections. It is not the policy of the Board, I think, to have standing objections.

Mr. Forer: I meant just on this ground. Otherwise—

Mr. Morrissey: You have an objection to this line of testimony.

Mr. Forer: That is what I mean.

[fol. 993] Mr. Morrissey: When he is through, it would be my suggestion, in order to preserve the record, your idea of the record, that you make a motion to strike the testimony, and then you have a ruling on it from both angles, and that would save your continual objections.

Mr. Forer: I want first to protect the record, and secondly, I don't want to keep interrupting to make unnecessary objections.

As I understand it now, I have an objection to his entire line of testimony about his dealings or knowledge of the American Committee for Protection of Foreign Born during the time he was in the Communist Party, on the ground of remoteness. I have objected to that entire line, or I certainly intended to.

Mr. Morrissey: I think the record is clear on that. I overruled the objection.

You may proceed, Mr. Maddrix.

By Mr. Maddrix:

Q. Under what authority were you and Mr. Landy operating at this particular time?

A. Under the authority of the Central Committee of the Communist Party, delegated to us to deal with this particular case, and on the authority that both were members of the Communist Party and subject to Party discipline and Party decisions.

[fol. 994] Q. As a result of the decision made by you and Mr. Landy, who was made head of the American Committee for Protection of Foreign Born?

A. Abner Green.

Q. That is the same Abner Green who sits alongside of Mr. Forer at the trial table here today?

A. That is correct.

* * * * * * *

[fol. 995] Q. Where did this meeting between Mr. Green and Mr. Novak and Mr. Landy and you take place?

Mr. Forer: Wait a minute. That is assuming matters that are not in evidence.

Mr. Maddrix: Surely we got in evidence that there was a meeting.

Mr. Morrissey: The objection will be overruled.

You may answer, if you know.

The Witness: That meeting took place at the national headquarters of the Communist Party at 35 East 12th Street, on the 9th floor, in New York City.

Mr. Morrissey: Can you fix the date?

The Witness: At the beginning of 1942, the early part of 1942. That is the closest I can state.

By Mr. Maddrix:

Q. Who was present there?

A. Only the four of us—Landy, Green, Novak, and myself.

Q. Did Mr. Green and Mr. Novak have an opportunity [fol. 996] to express their side of this dispute?

A. Yes, both sides were expressed, and the conclusion was that there was a bad working relationship between the two.

• • • • • • •

[fol. 1004] Q. Do you know whether or not the American Committee for the Protection of Foreign Born during the time you were a member of the Party had any connection whatsoever with the Party, speaking of the Communist Party?

Mr. Forer: The question is: Do you know?

Mr. Maddrix: That is right.

Mr. Forer: No objection. I am not saying anything.

The Witness: Yes.

By Mr. Maddrix:

Q. What connection, if any, did it have?

Mr. Forer: I object. It is too general a question.

Mr. Morrissey: The objection is overruled.

[fol. 1005] The Witness: The functionaries of the Protection of the Foreign Born, the top functionaries, like

Abner Green and Harriet Baron, attended Party meetings and had the benefit of the discussions and deliberations of the Party on all policies, and carried out Party policies with respect to their own organization, and fitted Party policies into the functions of their own organizations.

Mr. Forer: I move to strike that testimony as being completely opinion and conclusory, or at least that part of the answer about "had carried out Party policies" and what follows it, as being conclusory and opinion testimony.

Mr. Morrissey: The motion to strike will be denied.

* * * * * * *

By Mr. Maddrix:

Q. You mentioned a while ago about the Central Committee of the Communist Party having vested authority in this Nationality Groups. Please explain for the Chairman, if you know, what the functions of the Central Committee were.

[fol. 1006] A. The Central Committee of the Communist Party is a body of Party leaders elected at a convention, who have the responsibility to carry out the Party decisions between conventions.

These Party decisions, to be effectively translated into activities, raises the problem of many phases of activities, a multitude of activities. In order to carry out these activities in an organized fashion, the Central Committee organizes and appoints subcommittees, subcommittees that specialize in certain types of activities, like the Nationality Groups Commission which specialized on nationality groups' problems pertaining to Communist Party policies. It supervised the activities of the Language Bureaus of the Communist Party. It supervised the line of the language Communist press. It supervised and gave direction and guidance to all activities pertaining to nationality group problems and work.

The Labor Committee or Trade Union Department of the Party supervised and gave guidance and direction to all problems pertaining to trade unions and Party policies in the trade union movement.

The Youth Commission or Youth Committee, to give guidance and direction to all problems pertaining to youth work on the part of the Communist Party.

So these subcommittees specialized and helped to bring [fol. 1007] about a correct approach and a proper and correct decision on the part of the Central Committee in various problems. These were the functions of these subcommittees that we mentioned.

Q. You mentioned having attended the National Committee meetings of the Communist Party. Did you mention having attended the national convention in 1940?

A. Yes.

Q. Did you hold any official position at that convention?

A. Yes. In the 1940 convention, I was on the presiding committee of the convention.

Q. Is that the presidium?

A. That is the presidium of the convention. It is elected as the convention assembles, and it is in charge of the convention until the new Central Committee or National Committee is elected.

Q. Let me ask you this question: During any of these national conventions of the Communist Party which you attended, did you ever see Abner Green at any of those conventions?

A. He was at the 1948 national convention of the Communist Party, which was held in the summer of 1948 at the Riverside Plaza in New York City.

* * * * * * *

[fol. 1012] By Mr. Maddrix:

Q. Mr. Lautner, you mentioned prior to the recess one [fol. 1013] Harriet Baron. I want to ask you whether or not you know of your own knowledge whether Harriet Baron was a member of the Communist Party.

A. Yes.

Q. How do you know that?

A. I had party business with her. As late as 1949, she came up to my office, which was at Party headquarters at 13 East 12th Street, and urged me to convey a message that was given to her by one Sam Carr, who was on Ellis

Island at that time, and the message was to go to a relative of Norman Schrank, S-c-h-r-a-n-k. The message was that this relative should get rid of a package.

I conveyed the message to Norman Schrank. I carried out the message from Sam Carr to this relative of Norman Schrank's.

Harriet Baron attended Party meetings in the 1930's in my presence; in the 1940's in my presence. • • •

• • • • • • • •

[fol. 1021] Mr. Maddrix: Mr. Reporter, will you please mark this exhibit Petitioner's Exhibit No. 6 for identification.

(The document referred to was marked Petitioner's Exhibit No. 6 for identification.)

Mr. Maddrix: Mr. Chairman, Petitioner's Exhibit No. 6 for identification is a copy of the Daily Worker dated January 20, 1948. We wish at this time to offer in evidence from page 1 of this issue, a picture of Claudia Jones and a description which follows under the picture, referring to her difficulties with the Immigration and Naturalization Service, and the American Committee for Protection of Foreign Born's participation in her difficulty.

Mr. Forer: I object. In the first place, this is not admissible as evidence of the facts which are recited in this [fol. 1022] newspaper. With the previous witness, I showed the witness a newspaper item. As I remember, it was the Boston Herald, or something of that sort. Mr. Maddrix himself raised the point that it would be admissible only if the offer was limited to proof of the fact that the article appeared, and not proof of the facts stated in the article. It was on that understanding that my newspaper exhibit, which was the Boston Herald, was admitted.

Unless the offer is similarly limited here, that this article is offered to show that such an article appeared in the Daily Worker, then clearly it falls within the ruling before, and cannot be admitted as proof of the recital of facts stated in here.

For instance, it says here that Claudia Jones "was arrested on a deportation warrant last night." The fact that it appears in the Daily Worker is not proof of that fact, any more than when this Boston Herald article said that the New England Committee for Protection of Foreign Born had been organized in 1952 it was proof of that fact.

If he wants to identify Claudia Jones, let him do it through the witness, who has already done it, or through some other witness. Unless the offer is so limited, I think it is clearly inadmissible.

Before I go on with my other objections, I would like to know if Mr. Maddrix would so limit it.

[fol. 1023] Mr. Maddrix: I will limit it, but I would like to say this, first. The article also states not only that she was arrested, but that she was a member of the National Committee of the Communist Party, and also the American Committee for Protection of Foreign Born had assigned an attorney to represent her.

* * * * * * *

I will say, in answer to your question, Mr. Chairman, that we are offering this under (2)(d) of the petition, showing the favorable publicity which the Communist Party gave to the American Committee for Protection of Foreign Born.

* * * * * * *

[fol. 1024] Mr. Maddrix: Yes. Furthermore, it could be under (3)(a), too. We will limit our offer—I am using the [fol. 1025] wrong expression; not limit. We will proffer this exhibit under the allegation of the petition which shows favorable publicity by the Communist Party to this organization.

* * * * * * *

[fol. 1028] Mr. Morrissey: Petitioner's Exhibit 6 will be [fol. 1029] admitted on the theory and in connection with or in accordance with the allegations in the petition as to favorable publicity by the Communist Party.

(The document referred to was received in evidence as Petitioner's Exhibit No. 6.)

* * * * * * *

[fol. 1032] June 30, 1955

JOHN LAUTNER, the witness on the stand at time of recess, resumed the stand and testified further as follows:

Direct examination (continued).

• • • • • • •

[fol. 1073] Q. Do you know to whom the Communist Party members reported for activities in the 1946 and 1948 political campaigns in New York City?

• • • • • • •

[fol. 1074] Mr. Morrissey: The objection will be overruled.

The Witness: They reported to Abner Green.

By Mr. Maddrix:

Q. How do you know?

A. I was so instructed, to instruct Party members in my [fol. 1075] organization in 1936 and also from State headquarters of the Communist Party in 1946 for key Party figures to report to Abner Green on First Avenue between 78 and 77 Street on the East Side of the Street, in a building where the headquarters of the ALP were, and where Abner Green was in charge in assigning Party members who were sent to him in election campaign work.

Mr. Forer: Just a moment. I move to strike that answer not only on the grounds of the objections I made to the question, but on the further ground that the answer develops that it is complete hearsay because he said he was instructed in 1936. I therefore move to strike the answer.

Mr. Morrissey: The motion to strike will be denied.

By Mr. Maddrix:

Q. Mr. Lautner, let me see if I understand the period. Did you mention 1936 and 1948?

A. No, 1946 and 1948.

• • • • • • •

[fol. 1076] Cross examination.

By Mr. Forer:

* * * * * * *

[fol. 1083] Q. Mr. Lautner, where do you live?

A. My address is the Department of Justice Building, Room 3266, Washington 25, D. C.

Q. Do I understand that you sleep there?

A. No. That is my address, where you can contact me any time you feel like it.

Q. Now, Mr. Lautner, suppose you answer my question, which was, not your business address, but where do you live?

A. I wouldn't give you my address where I live, because—

Q. Just a moment.

A. You raised a question. Let me answer you.

[fol. 1084] Mr. Morrissey: Just a moment.

By Mr. Forer:

Q. You just said you wouldn't answer. I am not interested in why you won't answer.

A. But you should be.

Mr. Morrissey: Let counsel finish with his question, Mr. Lautner.

By Mr. Forer:

Q. Do I understand that you are refusing to answer where you live?

A. If you give me personal guarantees as to my—

Mr. Morrissey: Mr. Lautner, you can answer that "yes" or "no," can you not?

The Witness: Well, I answered, Your Honor, with a qualification. If he can give me guarantees as to my personal safety, I will answer his questions. If he cannot give those guarantees, I wouldn't.

Mr. Morrissey: I think all counsel wants to show is if you refuse to give your address. You may state that you do, or you may give it.

The Witness: Your Honor, I gave him an address.

Mr. Morrissey: In other words, you don't want to give your home address, is that right?

The Witness: Under certain qualifications I would.

Mr. Morrissey: No.

[fol. 1085] The Witness: I can't give a "yes" or "no" answer to that question. Under certain stipulations, I would.

By Mr. Forer:

Q. You mean that I guarantee your personal safety?

A. That is correct, you and your organization.

Q. You seem to have a lot of confidence in me.

Mr. Morrissey: This is not material at all.

The Witness: It is very important to me.

Mr. Forer: Mr. Chairman, I ask that the witness be directed to answer my question, which was: "Where do you live?"

Before ruling on that, Mr. Chairman, I would like to call your attention to the case of Alford v. United States, reported in 282 U.S. 687, which was decided by the Supreme Court as recently as February 24, 1931, in which the Court held—and I can summarize it perhaps by reading the last headnote:

"Refusal of the court to permit a witness for the prosecution to be asked on cross-examination where he lives is prejudicial error."

• • • • • • •

[fol. 1087] Mr. Forer: I certainly do, but I think that flies right in the face of that Supreme Court decision. In view of the fact that I am not now permitted to get an answer to that question, I now move that all of this witness' testimony heretofore in this proceeding be stricken because, as the Supreme Court has pointed out, I have been denied the right of cross-examination.

Mr. Morrissey: I don't think it is a material inquiry in this case, and I have so ruled. You may proceed with your next question.

Mr. Forer: I just want to tell you that is exactly what the trial court said in the Alford case, and the Supreme

Court said it is always a material inquiry on cross-examination.

Mr. Morrissey: You may proceed with your next question.

By Mr. Forer:

Q. As a matter of fact, the reason that you gave for refusing to answer my question is a complete invention which you have made up to glamorize and dramatize yourself, isn't that true?

Mr. Maddrix: Just a moment.

The Witness: It is not tru[illegible].

Mr. Morrissey: Just a minute. Counsel is objecting.

Mr. Maddrix: We object to the question.

[fol. 1088] Mr. Morrissey: The objection is sustained. The answer will be stricken.

Mr. Forer: I think it goes to this witness' credibility.

• • • • • • •

[fol. 1093] Q. Do you recall in your direct testimony testifying to a meeting held in 1942 at which were present Abner Green, Carl Novick, Avro Landy, and yourself. Do you recall testifying to that meeting?

A. I recall testifying to a meeting, but not the names you stated over there. It was Avro Landy, Irving Novak, Abner Green, and myself.

Q. How do you spell "Novak"?

A. N-o-v-a-k.

Q. N-o-v-a-k?

A. I know his name phonetically. I don't know how he spells it. It could be "ck" at the end. I don't know.

Q. It could be N-o-v-a-c-k?

A. It could be. I know his name phonetically.

Q. Would you accept my spelling that it is N-o-v-i-c-k?

[fol. 1094] A. It could be.

Q. As I recall your testimony yesterday, I believe you said that this meeting was in the spring of 1942, but I am not certain about that. Would you now give us your best recollection of the month in which that meeting was held?

A. I couldn't. That is the best recollection that I have. I know it was the early part of 1942 because of other events which took place around that time.

Q. You now say the early part of 1942. I have a recollection of your saying in the spring of 1942.

A. It could be, yes.

Q. When you say the early part of 1942, to the best of your recollection—

Mr. Maddrix: He has given his best recollection.

Mr. Forer: No, no. He has given me an answer that is a little indefinite to me. For instance, I don't think "in the spring of 1942" is the early part of 1942.

The Witness: That is the best I can do.

By Mr. Forer:

Q. What is the best you can do?

A. The way I testified to.

Q. What bothers me is that you testified to the fact in two ways, which by my interpretation of words are not altogether consistent. I am not saying you are being inconsistent, but as I understand, you said the early part of [fol. 1095] 1942, and you have also said in the spring of 1942. By some way of thinking, the spring of 1942 is the early part of 1942, but was it the spring of '42 or the winter of '42?

A. I can't improve on that. That is the best of my recollection.

Q. You can't improve on what? Is it the spring of '42 or early in '42?

A. I can't improve on my testimony to that effect.

Q. I want you to tell me now whether, to the best of your recollection—you say you can't improve on that.

A. That is the best of my recollection.

Q. What is the best of your recollection?

A. The one I gave you and testified to.

Q. You gave two. I want you to tell me now, what is the best of your recollection?

A. The early part of 1942 or the spring of 1942. That is the best of my recollection.

Q. The early part of 1942 or the spring of '42?

A. That is correct.

Q. At that time, at the time of this meeting, what was your position in the Communist Party?

A. I was a member of the Nationality Groups Commission of the Communist Party, and National Secretary of the Hungarian Bureau of the Communist Party.

* * * * * * *

[fol. 1139] Q. In the course of your work as an official of the Communist Party, naturally you were deeply interested in the fact that there were deportation cases against members of the Communist Party; correct?

A. Yes.

Q. So it would be only natural when the American Committee for Protection of Foreign Born defended members of the Communist Party, you would know about that; correct?

A. Most likely, yes.

Q. Most likely. It wouldn't be so natural when they defended people who weren't members of the Communist Party?

A. I beg your pardon?

Q. It wouldn't be so natural for you to know of particular cases in which they defended foreign born people who were not members of the Communist Party?

A. No, that would be all right. In fact, that would add to the prestige of the organization. It wouldn't detract. It would increase the prestige of the organization, the more individuals they could come to defend.

Q. I am not going to move to strike that, either, but I don't think it answered my question. My question was—let me go back.

It would be natural for you to know the names of individual Communists who were defended by the Committee, [fol. 1140] not all of them.

A. Most likely, yes.

* * * * * * *

[fol. 1194] Q. I believe you testified on direct that you saw Mr. Green at some meetings of the Communist Party?

Q. What was the last such meeting at which you saw Mr. Green—strike that.

When was the last such meeting?

A. My recollection is at the 1948 convention in Riverside Plaza, he was there.

Q. In 1948. Your recollection is that as far as you can [fol. 1195] recall, that was the last time?

A. I saw him in the Party building after that, on numerous occasions, but that is the last meeting where I saw him, that I recollect, which constituted a Communist Party meeting.

Mr. Forer: I move to strike as not responsive to the question, "saw him at the Communist Party building on numerous times."

The question was, what was—was the 1948 conference or convention the last meeting at which you saw him.

Mr. Morrissey: Your motion to strike will be denied. The answer may stand.

By Mr. Forer:

Q. Now, what was—what meeting of the Communist Party—and I am talking about a meeting—did you see Mr. Green at, before the—strike that.

When, before the 1948 conference, was the last Communist Party meeting at which you saw Mr. Green? The question is just when—I am just asking for a time, if you can give it.

Mr. Morrissey: Do you understand the question, Mr. Lautner?

The Witness: Yes.

Mr. Morrissey: You may answer.

The Witness: I saw him at the end of '45 and the beginning of '46, in that period of time, at one of the national meetings.

[fol. 1196] By Mr. Forer:

Q. Now, you testified on direct that you saw Harriet Barron at Party meetings. You recall that testimony, do you not?

A. Yes.

Q. What was the last Communist Party meeting—strike that.

When was the last Communist Party meeting at which you saw Miss Barron?

A. In 1949, in my office, during that incident that I described in my direct testimony.

Q. Well, as I remember—

Mr. Morrissey: That is rather vague, I think, Mr. Lautner.

The Witness: I can ascertain—

Mr. Forer: Well, I am going to inquire further on that.

By Mr. Forer:

Q. As I remember your direct testimony was to the effect—and see if I am talking about the same incident—that Miss Barron got in touch with you and asked you to meet somebody coming back from Ellis Island?

A. The same time I was out at Ellis Island.

Q. She got in touch with you by telephone?

A. No, she came to my office, that somebody came out to [fol. 1197] see Sam Carr. Who it was, she didn't say, with a message to get in touch—

Q. I don't want to know the details, but just let me ask the question.

You have already testified on this subject, so your description of it is there, but my point is she came to you with a request of some kind?

A. Yes.

Q. Now, that is not a Communist Party meeting, you wouldn't consider that a Communist Party Meeting, would you?

A. I was not hanging around on the street corner. I was a Communist Party official, and she came to me as an official, with confidential material in her mind to discuss with me.

Q. Yes, that I understand.

A. All right.

Q. I suppose when you were a Communist Party official, you had an office at Communist Party Headquarters, is that correct?

A. That is correct.

Q. And I suppose from time to time a lot of different people came to see you on different matters?

A. Yes, sir.

Q. Including people who so far as you know, were not members of the Communist Party?

[fol. 1198] A. Not in my office, they didn't get in there.

Q. They didn't get in.

A. No.

* * * * * * *

Q. When you testified that Harriet Barron attended Communist Party meetings, you were using the word "meetings", so as to include—

A. Plural.

Q. I know plural. You were using the word "meetings" —strike that.

When you so testified, the word "meetings" was broad enough to include her coming to your office and holding a conference with you?

A. That was the last time I had contact with her, personally. The question was when was the last time I saw her, or something like that.

Q. Oh, perhaps you misunderstood the question?

A My answer was, the last time I saw her in my office.

Q. Mr. Lautner, the question that I asked you, first, was what was the last Communist Party meeting at which you saw Harriet Barron?

Don't you remember that?

[fol. 1199] A. Yes, and I testified that the last time I saw her was in my office on party business. Besides that, she was a staff worker at a number of plenums in 190 at National Conventions, and these were all so-called formal party meetings.

Q. Just a minute. Now, I don't think that I still have an answer to the question that I asked. Using the word "meeting" in the orthodox meaning of the word, that is a Party meeting, a formal meeting, a meeting of an organization and of the party or a body of the party, when was the

last such meeting at which you saw Harriet Barron. It is a simple question.

A. I have no recollection at this time. I know I saw her from time to time from 1936, on, at National Plenums in the capacity of a Staff Worker.

I saw her at conventions. I saw her in the Party building. She came to me on this particular occasion. I was not in the same branch with her.

• • • • • • •

[fol. 1316] July 6, 1955

BERNICE BALDWIN was called as a witness and, having been first duly sworn, was examined and testified as follows:

Direct examination.

By Mr. Knight:

• • • • • • •

Q. Will you tell us, please, when you became a member of the Communist Party?

A. Yes. In the early part of 1943.

• • • • • • •

[fol. 1334] Q. Do you know whether or not Saul Grossman is a member of the Communist Party?

A. Yes, I do.

Q. What is the basis of your knowledge, please?

A. I attended closed meetings with Saul Grossman, many [fol. 1335] closed Party meetings, and also Party school, Communist Party school.

Q. Now, did Saul Grossman perform work exclusively for the Civil Rights Congress, at that time?

A. Your question is a little broad, there. He did in connection with the Communist Party work. He was given consultation and advice, but he was operating, yes, from the Civil Rights Congress office.

Mr. Forer: I move to strike the entire answer as not responsive.

Mr. Morrissey: The motion to strike will be denied and the answer may stand.

By Mr. Knight:

• • • • • • •

Q. What was the nature of the work the Civil Rights Congress was doing, at that time?

A. Primarily raising funds—bail funds for deportees, or people who had been picked up by Immigration and Naturalization Service and for the Communist leaders who had been indicted.

Q. Now, did the Civil Rights Congress subsequent to the appointment of Saul Grossman as executive secretary, [fol. 1336] did they still continue to raise bail money for deportees?

A. Yes, but the load became too heavy, at that time, and that is when they branched off.

• • • • • • •

Q. Mrs. Baldwin, did there come a time when the work [fol. 1337] load of the Civil Rights Congress became too heavy for that organization to handle?

• • • • • • •

Q. What if anything was done, to your knowledge, to alleviate that situation?

A. There was a special committee set up to take care of the foreign born or "Nationalist" groups, as we called them, of the Communist Party.

Q. What was the name of that committee?

A. That was the Michigan Committee for the Protection of the Foreign Born.

Q. Can you recall who became the head of the Michigan Committee for the Protection of the Foreign Born, at that time?

• • • • • • •

[fol. 1338] A. Saul Grossman.

• • • • • • •

[fol. 1339] Q. Mrs. Baldwin, do you know what the purpose of this Michigan Committee for the Protection of the Foreign Born was to be?

A. Yes.

Q. Will you tell us what that purpose was, please?

Mr. Forer: I object. This is calling for general conclusions and also it is irrelevant and not connected to the respondent.

Mr. Morrissey: The objection will be overruled.

You may answer.

The Witness: Yes. To protect and to help defray court costs, to raise bail money for the foreign born people of the Communist Party.

• • • • • • •

[fol. 1343] By Mr. Knight:

Q. Mrs. Baldwin, did you ever attend any national conference of the respondent organization, at any time?

A. Yes, I did.

[fol. 1344] Q. Would you tell us in about what year that was, please, to your recollection?

A. Yes, that was in the winter of 1949.

Q. Have you testified that you had been a member of the party?

A. Yes.

Q. Do you recall if anybody assigned you to attend this conference?

A. Yes.

Q. Who was that, please?

A. I was approached first by Harry Boskey, who was the counsel member of the Auto Miscellaneous Section of the Communist Party, to represent the Auto Miscellaneous Section at a national conference for the Michigan Committee for the Protection of the Foreign Born.

The question was taken up before my organizer and organizational secretary of this section and they delegated me as a representative to that.

Q. As a result of being so delegated, did you attend such a conference?

A. Yes, I did.

Q. Where was it held, please?

A. It was held in Detroit.

Q. Did you have any official duties or position in connection with that conference?

[fol. 1345] A. Yes, I was one of the registrars.

• • • • • • •

[fol. 1346] Q. Did Esther Boskey give you any orders or instructions with regard to your duties at this conference?

• • • • • • •

The Witness: She introduced me to Harriet Barron.

By Mr. Knight:

Q. Did you have a conference with Harriet Barron?

A. Yes, she was in charge of the registrars for the conference.

Q. You were a registrar?

A. Yes.

Q. Did Harriet Barron give you any instructions as to what you should do at this conference?

A. Yes.

Q. What were those instructions, please?

[fol. 1347] A. That we were to take the name, the state and the occupation.

Q. Mrs. Baldwin, can you recall whether or not there was a person present at this conference named Abner Green?

A. Yes.

• • • • • • •

Q. Do you recall whether or not Abner Green addressed this conference, of which you are speaking?

A. Yes, he did.

Q. Can you recall the general nature of his remarks?

A. He gave a resume of the work done and to be done. In other words, he gave the keynote address. As I recall, he was Chairman of the first session in the morning.

• • • • • • •

[fol. 1348] Q. Now, can you recall one or two or three individuals who might stick out in your memory as having been speakers at this conference?

A. As I recall seated at the platform was Fritz Rust and a Russell Emin.

Q. That is Fritz Rust and Russel Emin?

A. Yes, and a deportee from the State of New York was Beatrice Siskin Johnson, and A. Ganley and at the later session, Karl Winter.

• • • • • • •

[fol. 1349] Q. Do you know whether or not Karl Winter was a member of the Communist Party?

A. Yes, he was.

Q. Do you know whether or not Fritz Rust was a member of the Communist Party?

A. Yes.

Q. Do you know whether or not Russell Emin, E-m-i-n, was a member of the party?

A. Yes.

• • • • • • •

[fol. 1561] July 7, 1955

BARBARA HARTLE called as a witness and, having been first duly sworn, was examined and testified as follows:

[fol. 1562] Direct examination.

By Mr. Maddrix:

• • • • • • •

[fol. 1570] A. After being chairman of the King County Communist Party, I became secretary of the Northwest District, or District 12 of the Communist Party.

Q. And when was that?

A. In 1945, 1946.

Q. Now, District 12 at that time, in 1945 and 1946, comprised what states?

A. The States of Washington, Oregon and Idaho.

Q. Was there a chairman of this Number 12 District?

A. Yes.

Q. At the time, I am speaking, in 1945 and 1946?

A. Yes.

Q. Who was that?

A. Henry Huff.

Q. Now, would it be fair to say that the chairman was also the Number 1 position in the district?

A. Yes. That was the Number 1 position.

Q. Now, bearing that in mind, in what position was the secretary of the Northwest District of the Communist Party, in Number 12?

A. The second position.

• • • • • • •

[fol. 1578] July 8, 1955

Q. Did you ever hear of an organization known as the American Committee for the Protection of Foreign Born?

A. Yes.

Q. About when did you first hear of this organization?

A. I heard of it upon joining the Communist Party in late 1933, or early 1944.

Q. While a member of the party, what did you hear about it?

Mr. Forer: I object to that question on a number of grounds. First of all, the question is much too general and vague; secondly, it has no precision as to time or place from whom she heard, and so on; thirdly it is irrelevant; fourthly, it is remote, and fifthly it is hearsay and it is not binding on the Respondent.

This is just an invitation for—and I might add this is just an invitation for a narration. I don't think that kind of question should be allowed.

Mr. Morrissey: The objection will be overruled and she may answer.

The Witness: May I hear the question repeated?

[fol. 1579] (The question was read.)

The Witness: I heard that the American Committee for the Protection of Foreign Born was an organization of the Communist Party that would defend Communists from being deported by the Immigration Department and attempt to prevent them from being deported. And persons charged with being Communists could go to the American Committee and receive help from them in fighting their cases.

Mr. Forer: Just a moment. Now, I move to strike that answer on the ground that it is obviously, on its face, incompetent and improper testimony.

Mr. Morrissey: The motion to strike will be denied.

By Mr. Maddrix:

Q. Where did you hear these discussions take place? Within what organization of the Communist Party?

A. I heard the discussions in unit meetings which I attended and in functionaries' meetings which I attended, of the Communist Party in Spokane, Washington.

Q. Now, let me ask you whether or not you heard the American Committee for the Protection of Foreign Born discussed at any District meeting, and if so, please testify to the time.

A. Yes. I heard discussions at District meetings concerning the American Committee, in 1948-1949.

[fol. 1580] Q. Did you hear any discussions concerning the American Committee for the Protection of Foreign Born in the Executive Board meetings, along about the same time?

A. Yes.

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Q. Now, before you do that, let me ask you this: Who was the Chairman and presiding officer of the District Exec-[fol. 1581] utive Board during the period that we are going to specify later?

A. Henry Huff.

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By Mr. Maddrix:

Q. What period was this we are speaking of, Mrs. Hartle?

A. 1948 and 1949.

Q. Were you a member of the District Executive Board during this period?

A. Yes.

Q. And was it during formal meetings of the District Board that there was a discussion of the American Committee for the Protection of Foreign Born?

A. Yes.

Q. Now, tell us what the discussion was.

A. The discussions were that there was a need for a local branch of the American Committee for the Protection of Foreign Born; that Communist Party members were being charged by the Immigration Department and threatened

[fol. 1582] with deportation, and that they would need defense. The Communist Party felt there was a need of an organization to give such defense and that that field was being covered by the American Committee, on a national scale, and that there should be a local organization of it to carry on the work there.

Q. Now, beside the need that you have spoken of, was there anything else discussed in the Executive Board meetings concerning the need for this local organization to be connected with the American Committee?

A. Yes.

Q. What was that?

* * * * * * *

[fol. 1583] The Witness: It was suggested also there was a need for such a branch of the American Committee in order to attract the support of a certain sector of the population to the Communist Party line who were interested in the problems of foreign born persons.

By Mr. Maddrix:

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Q. Now, Mrs. Hartle, was there organized a local committee to take care of this problem dealing with aliens subjected to deportation measures by the immigration department, if you know?

* * * * * * *

[fol. 1584] The Witness: Yes, such a committee was organized.

By Mr. Maddrix:

Q. About when was that, Mrs. Hartle, to the best of your recollection?

A. 1948.

Q. Do you know the name of the organization?

A. Yes.

Q. What was the name of it?

A. The Northwest Committee for the Protection of Foreign Born.

Q. Where was that headquartered, if you know?

A. In Seattle.

Q. Do you know whether or not that same organization subsequently changed its name?

A. Yes.

Q. Do you recall about when that was?

A. I heard of the change in name in 1954.

[fol. 1585] Q. All you know about it is, you just heard that the name had changed. Is that right?

A. In 1954 I was told by Marion Kinney, an officer of that organization, that its name had been changed and was now known by another name.

* * * * * * *

[fol. 1586] The Witness: The discussion in the District Committee followed the same line as that of the District Board, with the addition that there were more detailed reports of activities of the Northwest Committee from persons in charge of certain phases of work, and more acquainted with the affairs and activities of the Northwest Committee in detail.

By Mr. Maddrix:

Q. Did you know a person by the name of Marion Kinney?

A. Yes.

Q. K-i-n-n-e-y, is that how you spell it, Mrs. Hartle?

A. That is right.

Q. Do you know whether or not she was a member of the Communist Party in Seattle?

A. Yes.

[fol. 1587] Q. How do you know it?

A. I knew it from attendance at many Communist Party meetings with her; from discussions with her about the Communist Party: from carrying on activities of the Communist Party with her; from being a member of the District Committee of the Northwest District of the Communist Party with her.

Q. Now, I will have to ask you this question: Was she or was she not a member of the District Committee?

A. Yes, she was.

Q. And you did sit in District Committee meetings with her?

A. Yes.

Q. Do you know about what period she was a member of the District Committee?

A. From about 1945 to 1948.

Q. Now, do you know whether or not she was connected with this Northwest Committee for the Protection of the Foreign Born?

A. Yes.

Q. In what capacity?

Mr. Forer: Just a moment. I object to any testimony concerning the Northwest Committee for the Protection of Foreign Born on the grounds that that is irrelevant to the issues in this proceeding.

Mr. Morrissey: Objection will be overruled.

[fol. 1588] By Mr. Maddrix:

Q. In what capacity did she function?

A. She was Secretary of the Northwest Committee.

Q. Do you know how she became Secretary of the Northwest Committee?

A. She was assigned by the Communist Party to carry on the work in the Northwest Committee, and to accept the office of Secretary, in order to better be able to carry on that work.

• • • • • • •

[fol. 1589] Q. Do you know whether or not the Communist Party in Seattle circulated any literature for the American Committee for the Protection of Foreign Born?

A. Yes.

Q. How do you know that?

A. Literature and pamphlets of the American Committee for the Protection of Foreign Born were circulated through the Communist Party literature apparatus, in branches and clubs which I attended, and were circulated through the Frontier Book Store, which was the book store of the Communist Party in Seattle.

• • • • • • •

[fol. 1596] Q. Did you know a person by the name of Abner Green?

A. Yes.

Q. Do you see him here today?

A. Yes, I do.

Q. Where is he sitting, please?

A. He is sitting beside the gentleman in the gray suit.

Q. Are you speaking of the trial attorney for the American Committee for the Protection of the Foreign Born, when you refer to the man in the gray suit?

[fol. 1597] A. Yes.

* * * * * * *

[fol. 1599] Q. Did you all sit at one table or did you sit at more than one table?

A. We sat at one table.

Q. Did Mr. Green have anything to say during this luncheon period?

A. Yes.

Q. What did he talk about?

A. He talked with Mr. Huff about the work of the American Committee, and of the Northwest Committee, its progress in the Seattle area.

Q. What did he say about the Northwest Committee, at that time?

A. He said he was satisfied with the progress of the Northwest Committee and was pleased with the response at meetings and conferences that were being held around his visit, there.

Q. Now, let me ask you this: Do you know whether or not Mr. Abner Green met with any high functionaries of the Communist Party in the Seattle area at any other time—and I will set the time—any time between 1948 and 1950?

Mr. Forer: I object on the grounds that it is irrelevant.

[fol. 1600] Mr. Morrissey: Objection is overruled.

The Witness: Yes.

By Mr. Maddrix:

Q. Who did he meet with, if you know?

A. He met with Henry Huff.

Q. How do you know this?

A. Henry Huff reported in a meeting of the District Board of the Northwest District that he had met with Abner Green and Marion Kinney on the occasion of a visit that Mr. Green made to the Seattle District as national head of The American Committee for the Protection of the Foreign Born.

Mr. Forer: I move to strike the answer on the grounds that it is obviously hearsay.

Mr. Morrissey: Motion to strike will be denied.

By Mr. Maddrix:

Q. Mrs. Hartle, do you know whether or not the Communist Party in Seattle supported in any way the Northwest Committee for the Protection of the Foreign Born?

A. Yes.

Q. How did they support it?

Mr. Forer: Wait just a moment—never mind.

The Witness: The Communist Party supported the Northwest Committee by circulating material it issued, through its members, and through its members to the public. Distribution of material issued by the Northwest Committee.

[fol. 1601] The Communist Party also circulated and sold tickets for affairs that were issued by the Northwest Committee.

By Mr. Maddrix:

Q. Do you know whether or not the Northwest Committee took any position in reference to the so-called Smith Act?

A. Yes.

Q. What position did it take?

A. It took the position of opposing the Smith Act.

Q. Now, from your knowledge of the functions of the Communist Party in the northwest, do you know what relationship, if any, existed between the Northwest Committee for the Protection of the Foreign Born, and the American Committee for the Protection of the Foreign Born?

Mr. Forer: I object. There has been no foundation laid and it also calls for a pure conclusion of the witness.

Mr. Morrissey: Objection will be overruled. She may answer.

The Witness: The relation of the Northwest Committee to the American Committee was that it was a chapter of the American Committee.

Mr. Maddrix: Your witness.

Mr. Morrissey: You may cross-examine, Mr. Forer.

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[fol. 1709] September 8, 1955

Cross examination (resumed).

By Mr. Forer:

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[fol. 1736] By Mr. Forer:

Q. When you said Marion Kinney was assigned by the Communist Party to accept the office of secretary in the Northwest Committee, when was that?

A. As I recall, it was sometime in 1949.

Q. Do you remember when in 1949?

A. My best recollection is that it was about a year before I left Seattle, which would make it about the middle of 1949.

Q. But the Northwest Committee, you told us, was organized in 1948?

A. Yes, that is my recollection.

• • • • • • •

[fol. 1738] Q. You have told us that Marion Kinney was secretary of this organization in 1949. Now, will you please tell us what you mean by "secretary"?

A. I meant that the organization had a chairman and other officers, and a secretary, and the secretary's job was that of putting out correspondence, calling meetings, and doing the work that a secretary does in an organization, usually.

Q. But she was not executive secretary?

A. No.

Q. Was there an executive secretary, in 1949, when Marion Kinney was secretary?

A. I don't remember.

• • • • • • •

[fol. 2338] October 4, 1955

MARION MILLER, called as a witness by and on behalf of the Petitioner, having been duly sworn, was examined and testified as follows:

Direct examination.

By Mr. Maddrix:

• • • • • • •

[fol. 2340] Q. Have you heard of an organization called the Los Angeles Committee for Protection of Foreign Born?

A. Yes.

Q. When did you first hear of that?

A. It was in October, 1950.

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[fol. 2341] Q. What were the circumstances surrounding the fact that you had heard of the existence of this organization?

A. Through the mails. I received a letter from this Committee inviting me to attend a conference in Los Angeles.

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[fol. 2342] Q. And did you attend this particular conference?

A. Yes, I did.

Q. Do you know where it was held?

A. I believe it was the Parkview Manor at—I am not [fol. 2343] sure of the exact number—about 2200 West 7th Street in Los Angeles. It is no longer in existence, this place, but it is on West 7th Street, near Alvarado.

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[fol. 2373] October 5, 1955

Mr. Morrissey: Proceed, Mr. Maddrix.

Mr. Maddrix: Now, Mr. Chairman, I would like to call your attention to Petitioner's Exhibit 54, which has already been admitted in evidence. On page 2 thereof, there is a heading, a subheading, "Affiliations," and I am reading now:

"The Committee shall be affiliated to the national organization known as the American Committee for Protection of Foreign Born for purposes of mutual support, exchange of information and coordination of activities pertinent to the committee's aims."

By Mr. Maddrix:

Q. Now, let's return to this October meeting which you attended, Mrs. Miller. I think you testified yesterday that it was held at the Parkview Manor; is that correct?

A. Yes.

Q. You have previously mentioned here the name Delphine Smith. Did you see her at the conference?

A. I happened to sit next to her at the conference.

Q. Did you have a conversation with her?

A. Yes. We became quite friendly.

Q. Tell us what that conversation was.

Mr. Forer: I object, Mr. Chairman, because it is complete hearsay.

Mr. Morrissey: The objection will be overruled.

. . . . . .

[fol. 2373a] The Witness: During the conference, Delphine Smith spoke to me and noticing my interest in the Committee work invited me to participate and to become active. She asked if I would come down to the office sometime to help her with her technical work. She had little or no help in the office. I agreed to do this.

. . . . . .

[fol. 2374] Q. Mrs. Miller, I ask you whether or not Delphine Smith made a speech at that conference.

A. Yes, she did.

Q. What did she say?

Mr. Forer: I object. It is hearsay.

Mr. Morrissey: Objection overruled. You may answer.

The Witness: I don't remember everything she said, but I do recall one or two things which rather surprised me at the time. She mentioned, for example, a Henry Steinberg, who had a recent victory and said that it was a feather in the cap of the Communist Party.

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[fol. 2375] Q. Was Abner Green present at the time?

A. Yes, he was.

Q. Now, do you know whether he made a speech or not?

A. Yes, he did.

• • • • • • • •

[fol. 2377] Q. Do you recall what Mr. Green spoke about at this particular conference?

A. Mr. Green spoke very nicely at this conference, and very effectively explained these provisions of the McCarran-Wood law and how it affected the present deportees of Los Angeles, of the Los Angeles Committee for Protection of Foreign Born and he elaborated on each one of these provisions.

Q. You mean the provisions found in this exhibit 57?

A. Yes.

• • • • • • • •

[fol. 2379] Q. Do you know a man by the name of Frank Carlson?

A. Yes.

Q. Did you see him in this particular conference?

A. Yes.

Q. Did he stand up and make a speech or talk or say anything at the conference?

A. He was introduced as a leader of the Communist Party and on behalf of the Communist Party contributed fifty dollars ($50.00) toward the organization, the reorganization of the L.A. Committee for Protection of Foreign Born.

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[fol. 2395] Q. Can you tell us or explain how the Los Angeles Committee prepared its leaflets or throw-aways or propaganda material?

. . . . . .

[fol. 2397] The Witness: I will start again. When Delphine Smith was Executive Secretary she had no writers to help her prepare leaflets or pamphlets. She had to do all her own correspondence. Therefore, she was almost entirely dependent upon literature from the National Committee for the Protection of Foreign Born. This was mailed to her upon request and distributed at meetings.

Later, as some help was available, I observed that portions of the literature sent in by the National Committee were used, and rewritten in the writer's own vocabulary and some were left entirely intact.

[fol. 2398] In other words, the literature distributed by the Los Angeles Committee was really based upon the literature of the National Committee and still later, I would say in 1954 and 1955, as the funds of the Los Angeles Committee were more and more abundant, writers from Los Angeles were able to carry on and write their own pamphlets and they were not dependent upon the American Committee for literature.

Q. Do you know whether this material that you just described was or not sent to the American Committee in New York?

A. At Mr. Green's request, all literature, leaflets, throw-aways, that were printed in Los Angeles, were to be sent to the National Committee. He wanted to be kept informed at all times as to what was being done in Los Angeles. Also, as to any—I am afraid I am going on something else. Any change of deportees' status or addresses.

. . . . . .

[fol. 2401] Mr. Morrissey: The objection will be overruled. Petitioner's Exhibit No. 59 will be received in evidence.

(Petitioner's Exhibit No. 59 for identification was received in evidence.)

Q. Mrs. Miller, I notice here that at the beginning of the minutes, there is the following sentence: "Under Plan for Action Delphine Smith presented first the plans for Delegations: Communist Party delegation to Landon protesting Carlson's arrest and detention; I.P.P. delegation asking release of the four; the Peace Force, all four; UOPWA for David Hyun, A.S.P. for Harry Carlisle and a delegation of women for Merrium Stevenson."

You took these minutes, did you?

A. Yes, I did and they were always checked by the Chairman before they were mimeographed and mailed out.

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[fol. 2403] **Mr. Maddrix: Let's see if the witness understands the question, and can explain what Delphine Smith said at the particular meeting which is embodied in these minutes; which she took.**

* * * * * * *

Q. What was stated at that time by Delphine Smith in reference to the subject matter we are talking about?

A. Dorothy Smith reported that certain delegations had been set up in order to protest the arrest of the Terminal Island Four, as these people were called. The Communist Party were to protest for Frank Carlson; and the UOPWA for David Hyun. In other words, different organizations were set up to protest for a different one of the Terminal Island Four.

Q. What we are trying to establish was, whose plan was [fol. 2404] **this, that these organizations—various organizations—were to make the protest?**

A. She reported that she had set these delegations up. They had been set up.

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[fol. 2421] **Q. Can you tell us how often Mr. Green did visit the Los Angeles Committee during your association with it, approximately?**

A. About five times.

* * * * * * *

[fol. 2428] By Mr. Maddrix:

Q. Now, Mrs. Miller, I see here in the minutes which you took of the Executive Board meeting of January 16, 1951, the following: "Delphine Smith gave a thorough report of [fol. 2429] the organization plans that were discussed when Abner Green visited Los Angeles and, also, action that has been suggested for the immediate future. There will no longer be an Executive Board which meets regularly every two weeks, but in its place will be an action group consisting of the same members which will be called to special sessions when the Executive Secretary deems necessary."

Then there were other changes, suggested changes in this particular paragraph of the minutes which I call your attention to. Now, my question is did Delphine Smith, in making this report, say that the reorganization plans had been discussed with Abner Green or is that the conclusion which you placed upon it in writing up these minutes?

A. Delphine Smith said that that had been the result of her interviews and conferences with Abner Green when he was in Los Angeles.

Q. Now, do you recall a mass meeting of the Committee at the Embassy Auditorium in January, 1951?

A. Yes, I do.

Q. Do you know whether Mr. Green, Abner Green, was present?

A. He was the featured speaker. It was in his honor, yes.

Q. When were you first introduced to Mr. Green?

[fol. 2430] A. It was after this meeting that Delphine Smith introduced me to Mr. Green for the first time.

Q. When you say "after," that doesn't convey to us any preciseness of time.

A. It was at the hall, immediately following the program, that Delphine asked me to come down and meet Mr. Green personally.

Q. And did you meet Mr. Green personally at that time?

A. Yes. I was introduced to him then for the first time.

* * * * * * *

Q. Now, did Mr. Green have anything to say at this particular meeting we are talking about?

A. Yes.

Q. Tell us, if you can recall, what the subject matter was of which he was speaking.

A. I can't remember everything he said, but I recall particularly his saying that the American people had no right to expect justice through the courts, through the legal means and if they wanted justice they would have to get [fol. 2431] the people to be aroused and make the courts know what their feelings were, because all those who were most interested in the deportation cases were in the pay of the Attorney General; the Immigration Officers, the judges, the clerical workers.

Q. All right, and anything else?

A. That was about the gist of the speech, as I recall. He did, again, go into the legal aspects of the McCarran law and how it affected the deportees in Los Angeles and their status as of that time.

* * * * * * *

[fol. 2447] Q. Can you recall any meeting with her at which time there was a discussion whether or not she was a member of any other organization, except the Los Angeles Committee?

A. Yes, I can.

Q. All right, tell us about it.

Mr. Forer: I object, sir. It is irrelevant.

Mr. Morrissey: The objection will be overruled.

The Witness: Shortly after this meeting at which Delphine Smith officially resigned from the Committee, she asked me to come down and have lunch with her. She was still in the office helping the new force take over. I did. I came down to work that day and we had lunch. She had a couple of drinks—I don't drink myself—

By Mr. Maddrix:

Q. Now, when you say "drinks," let's qualify that a little more.

A. Well, she had a couple cocktails and she became quite talkative and at this time she told me, confided in me that she was a member of the Communist Party, and she also told me that she was being sent to San Francisco for a trial

period of ten days to help set up the Northern California Committee for Protection of Foreign Born.

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[fol. 2955] October 13, 1955

CLARK M. HARPER was called as a witness by the Petitioner and, having been duly sworn, was examined and testified as follows:

Direct examination.

By Mr. Maddrix:

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[fol. 2956] Q. Were you ever a member of the Communist Party?

A. Yes, I was.

Q. When did you become a member?

A. I became a member in the fall of 1943.

Q. Did you become active at the beginning of your membership?

A. No, I did not.

Q. When did you become active, if at all?

A. In the fall of 1944.

• • • • • • • •

[fol. 2958] A. In the meantime, in 1947, I was placed on the District Committee of the Northwest District of the Communist Party and I was on that officially up until December of 1950.

• • • • • • • •

[fol. 2976] By Mr. Maddrix:

Q. Mr. Harper, let me restate the question once more. Do you recall any discussion at any district committee meetings concerning the setting up of an organization to defend the rights of foreign born?

Mr. Forer: Objection on the ground stated.

Mr. Morrissey: Overruled.

The Witness: Yes, I do.

By Mr. Maddrix:

Q. All right, fix the time, first and then answer the question.

. . . . . .

[fol. 2977] The Witness: To set the time, it is a little hard for me to set the exact time on these things. It is quite a ways back but it was in the latter part of 1948 or probably the first part of 1949. That is really about as close as I can come. The first time I heard about these committees for the Protection of Foreign Born that I could recall was in a committee meeting we had, Henry Huff made a speech at this committee meeting stating the need for another organization to protect our foreign born comrades and he made quite a speech about it, about the need for it and that we should have an organization such as that. It would help build the Party and there was a mass organization—it was the job of the Communist Party to set up this organization to work on this. Well, there was quite a bit of discussion about it.

Mr. Huff spoke at length about setting up a branch of this organization for the protection of foreign born.

[fol. 2978] Q. You said, I believe, that among some of the things that Mr. Huff stated, was the need to set up another organization. Now am I correct in that?

A. Well, yes, you are correct.

. . . . . .

Q. Did Mr. Huff say anything about any organization which was in existence that had for its objective the protection of foreign born?

A. If I may explain myself a little clearer on this question: I may have formulated the wrong opinion—but he said that there was already an organization of the kind and we needed a branch in Seattle, Washington and that is what he was talking about.

Q. Did he mention the name of this organization which was already in being?

A. Yes, he mentioned the name of the American Com-[fol. 2979] mittee for the Protection of Foreign Born.

Q. And said they needed a branch?

A. And that we needed to set up a branch in Seattle, around that area.

Q. Now, let's look a little more closely at this meeting at the suggestion of the Chairman and see if we can put some people present. Do you recall—

Mr. Forer: Just a minute. Excuse me, Mr. Maddrix. I think probably this would be an appropriate time now for me to make my motion to strike the witness' testimony dealing with what Henry Huff and the others said at this meeting. I do so on the grounds that it is hearsay and not binding on the Respondent and remote and inherently unreliable.

Mr. Morrissey: The motion is denied.

By Mr. Maddrix:

Q. Do you recall who was present?

A. Well, I can recall some of the people that were present. Of course, as I mentioned, Henry Huff, Clayton Van Lydegraf, Terry Pettus, Marion Kinney, Clark Harper, myself.

Q. You mentioned Marion Kinney as being present. Do you know whether there was any other lady present or not?

A. Yes, as I recall, I believe Mrs. Barbara Hartle and there was some people from Tacoma whose names I cannot recall right this minute that were there.

[fol. 2980] There were others but I cannot really recall right now.

* * * * * * *

The Witness: Well, among the other things that Mr. Henry Huff said about this organization, he also said that the District Board met and had suggested that Marion Kinney, who had headed this organization, organization it.

Q. Do you know whether or not Marion Kinney did head it, the new organization?

A. Yes, I do.

Q. What office did she hold in it?

A. Well, at that time she—well she organized it and was holding these—I do not recall—I think it was executive secretary.

Q. Do you know when this was actually officially organized?

A. Yes, in 1949. The middle part of 1949.

Q. Do you know what name was given it?

A. Yes, Northwest Committee for Protection of the For-
[fol. 2981] eign Born.

* * * * * * *

Q. Now, Mr. Harper, before Marion Kenney actually began to organize this new organization was there any other meeting which you attended where there was a discussion of the new organization and specifically as to Marion Kenney being its head?

A. Yes, there was.

Q. Tell us about that.

Mr. Forer: I object, Mr. Chairman, for the reasons stated in connection with the question as to the previous construction.

Mr. Morrissey: Overruled.

By Mr. Maddrix:

Q. Before you answer my question, about how long was this after the meeting you just described?

[fol. 2982] A. Approximately a week later.

Q. What type of a meeting was this?

A. This was called a staff meeting in the office of the Communist Party.

Q. What do you mean by a staff meeting?

A. Well, a staff meeting is a meeting of several of the officers of the Northwest District of the Communist Party.

Q. Now, tell us what went on at this meeting concerning the question I originally directed your attention to.

Mr. Forer: I object on the grounds stated.

Mr. Morrissey: Objection overruled.

Read the question for the witness.

(The pending question was read by the Reporter.)

Mr. Morrissey: Do you understand the question?

The Witness: Yes, I do. Well, what went on at that meeting is that this Marion Kenney was there to get in-

structions and to ask how to go about organizing this Northwest Committee for Protection of the Foreign Born and discuss it with the officers of the Communist Party at this Communist Party staff meeting.

By Mr. Maddrix:

Q. And who was present at this meeting?

A. Henry Huff, Clayton Lydegraf, Terry Pettus and myself.

Q. Was Marion Kenney present?

[fols. 2983-2984] A. And Marion Kenney was present. Huff told her that she should bring in, should get someone else to take over some of her duties in the Communist Party to take care of organizing our new organization, which is this Committee for the Protection of the Foreign Born and that she should get all of the members of the Communist Party that were foreign born, what they call deportees, into this organization to start getting the officers and getting the organization on its way.

Q. Can you tell us whether or not prior to or after the organization got started, whether or not Marion Kenney made periodical reports to any meetings, Communist party meeting, I mean, which you attended.

Mr. Forer: Object on the ground that it is irrelevant and incompetent.

Mr. Morrissey: The objection is overruled. You may answer it.

The Witness: Yes, she did.

By Mr. Maddrix:

Q. Well, without going into the detail of what these reports were, we would like to have you fix the time as closely as you can and about how many meetings.

A. Well, I could not say exactly how many meetings but there were several meetings that Marion Kenney attended, and made reports on her progress of this new organization.

[fol. 2985] Q. Let me ask you this: Was there a regional committee of the Central Region which you organized, which you were an organizer?

A. Yes.

Q. And I think you told us awhile ago who composed that committee, did you?

A. Yes.

Q. If you did not, you may do so now.

A. Well, I think I told you.

Q. Just tell us again to be sure.

A. It was composed of the organizer of the regional committee, which was myself, I was chairman of this regional committee. It was composed of the chairmen of various clubs and some secretaries.

Q. Yes, you did tell us that. That refreshes my recollection. Now, was Marion Kenney a member of the Regional Committee during that time that you were organizer?

A. Yes, sir.

Mr. Forer: Objection as immaterial.

Mr. Morrissey: Overruled.

The Witness: Yes, she was.

By Mr. Maddrix:

Q. Can you tell us whether or not she made reports to the Central Regional Committee during the time that you were organizer?

[fol. 2986] A. Yes, she did.

Q. And what would these reports be in reference to?

Mr. Forer: I object. It is hearsay and it is irrelevant.

Mr. Morrissey: Overruled. You may answer.

The Witness: The reports were about the progress of the Northwest Committee for the Protection of Foreign Born and also telling about the members and asking in the Regional Committee for all of the members of the clubs to help to support and to build the committee for the Protection of Foreign Born.

Q. Were you, yourself active in the activities of the Northwest Committee?

A. No, I was not active in the committee as such, no.

Q. What did you do, what duties, if any, did you have which concerned the activities of the Northwest Committee for the Protection of Foreign Born?

A. Well, my duties all stemmed from—well, they were, rather, to see that the Communist Party members supported this organization, the committee for the Protection

of Foreign Born and that they joined this organization, those that were connected or that were deportees and supported all of the fund-raising affairs, meetings and so forth of the Northwest Committee for the Protection of Foreign Born.

Q. Did Marion Kenney at any time consult you concern-
[fol. 2987] ing her duties, her Communist Party duties in reference to her activity with the Northwest Committee for the Protection of Foreign Born?

A. Yes, she did.

Q. Tell us when it was and what was said.

Mr. Forer: I object, Mr. Chairman. This is complete hearsay.

Mr. Morrissey: The objection is overruled. You may answer.

The Witness: Well, of course, there were various times when she consulted me about the committee but in one particular time, if I should go any further—I mean if you want any particular time or what it was about, I can tell you about it in 1951.

Q. Well, 1951 is the year I have reference to?

A. Well, in 1951, around the latter part of 1951 is when Marion Kenney asked me could she be relieved of some more duties which she had in the Communist Party to do more work in the committee for the protection of foreign born.

Q. And as a result of her inquiry as to whether or not she could be relieved of some more of her Communist Party duties in order to devote more time to the Northwest Committee for Protection of Foreign Born, what, if anything did you do?

A. Well, I consulted a person that was the liaison between myself and the district committee.

. . . . . .

[fol. 2988] Q. As a result of her discussion with you, what did you, if anything, report to Marion Kenney?

A. I told her that it was perfectly all right, that she could [fol. 2989] be released, she could be relieved of some of her duties in the Party, the Party Club in order to have more

time to work in the Committee for the Protection of Foreign Born.

* * * * * * *

[fol. 2990] Q. Have you ever seen a man before whose name was Abner Green?

A. Yes, I have.

Q. And do you see Mr. Green present here today?

A. Yes, I do see Mr. Green.

Q. Will you point him out, please?

A. Next to the wall, over there.

Q. Sitting next to Mr. Forer?

[fol. 2991] A. Next to this gentleman here.

Q. Do you know whether or not he was in Seattle in 1952?

A. To my knowledge, he was.

Q. Tell us about the occasion, if you can recall it, and what Mr. Green did.

A. Well, as I recall, in the early part of 1952—I believe it was in March, there was a meeting at the Washington Hall in the City of Seattle where Mr. Green spoke.

Q. Who sponsored this meeting?

A. I believe it was the Committee for the Protection of Foreign Born. No—let, us see, I do not recall just who sponsored it. It was so mixed up at the time. I do not recall who sponsored that meeting.

Q. To the best of your recollection—well, by the way did Mr. Green make a speech at this particular meeting?

A. Yes, he made a speech there.

Q. I do not want you to detail his speech, but tell us some of the things which he said at this particular time.

A. Well, in particular that I remember is that is the time that he said that he had been in jail with Mr. Jack Stachel and how proud he was to be with him in prison and he also gave instructions of what to do in case the Immigration authorities would come around to any member or anyone, [fol. 2992] not to give them any information or to talk to them. I do remember that, in particular.

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[fol. 2996] Cross examination.

By Mr. Forer:

* * * * * * *

[fol. 3122] October 14, 1955

Q. Now you testified that Marion Kenney made some reports at several meetings concerning the progress she had made in organizing this committee for the protection of foreign born. Do you remember that?

[fol. 3123] A. Yes, I do.

Q. Now, these were meetings of what group within the Communist Party?

A. The District Committee meeting and also regional committee meetings.

Q. District Committee and regional committee. And you were at these meetings, were you?

A. The meetings that I speak about, that I remember her being there, I was there, yes.

Q. Now, how many district committee meetings did she make these reports at?

A. After this you mean?

Q. Well, you told us about the first one?

A. Yes.

Q. Well, she did not make a report at the first one on her progress?

A. Right.

Q. I am talking now about reports about her progress in organizing.

A. In district meetings you are speaking of?

Q. Yes, just take the district meeting.

A. I am sure it was two. I do not know how many more.

Q. You remember two?

A. Yes.

Q. Do you remember when these two occurred?

[fol. 3124] A. No, it was sometime after that.

Q. Sometime after that staff meeting?

A. Yes.

Q. Do you remember how long after the staff meeting?

A. Oh, I do not know, probably—I do not know whether it was a month or a month and a half.

Q. When you say a month or a month and a half, did the latest one of these district meetings, district committee meetings at which she reported occur within a month or a month and a half of the staff meeting or the first one of them, or what?

A. That she reported?

Q. Yes.

A. She reported at the very next district committee meeting.

Q. That was the first one you remember?

A. Yes.

Q. That must have occurred maybe a month or so later, at the district committee meeting you have told us about, correct?

A. Yes.

Q. So, presumably that occurred early in 1949?

A. Yes.

Q. Then she reported at still another District Committee meeting, is that right?

[fol. 3125] A. Yes.

* * * * * * *

[fol. 3126] Q. About how many regional committee meetings did she make these reports at?

A. Two or three or probably more. I cannot tell you just how many because she reported a number of times at the regional committee meetings and also in club meetings.

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[fol. 3958]

BEFORE THE LOYALTY CONTROL BOARD

HERBERT BROWNELL, JR., Attorney General of the United States, Petitioner,

v.

AMERICAN COMMITTEE FOR PROTECTION OF FOREIGN BORN, Respondent.

Courtroom 110
United States Court House
Foley Square
New York, New York
Tuesday, December 20, 1955

The above-entitled matter came on for further hearing, pursuant to recess, at 10:00 o'clock a.m.

Before: Edward M. Morrissey, Hearing Examiner.

Appearances:

(As heretofore noted)

* * * * * * *

[fol. 3960] LOUISE PETTIBONE SMITH, having been called as a witness on behalf of the respondent, and having been first duly sworn by Mr. Morrissey, testified as follows:

Direct examination.

By Mr. Forer:

[fol. 3961] Q. You are Louise Pettibone Smith?

A. Yes, sir.

Q. Where do you live, Professor Smith?

A. Winchester Center, Connecticut. It is near the center of Litchfield County, in the hills.

Q. Do you hold any position with the American Committee for Protection of Foreign Born?

A. I am Honorary Co-Chairman.

Q. You are Honorary Co-Chairman?

A. Yes.

Q. Is that a position to which you were elected?

A. Yes, I was elected at the last conference about two weeks ago.

Q. Where was that conference held?

A. In Detroit.

Q. Were other officers elected at that conference in Detroit about two weeks ago?

A. There are two other Co-Chairmen: Bishop Molton of Utah and Father Kenneth Ripley-Forbes, Philadelphia.

Q. Did you say they were Co-Chairmen, or Honorary Co-Chairmen?

A. Honorary Co-Chairmen, with me.

Q. Now, at that conference in Detroit was there also elected an Executive Secretary of the American Committee for Protection of Foreign Born?

[fol. 3962] A. Yes, Abner Green was elected Executive Secretary.

Q. What is your occupation, Professor Smith?

A. I am Professor of Biblical History, Literature and Interpretation, Emeritus, of Wellesley College.

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[fol. 3978] Q. You have already told us that you are—you now hold the position of Honorary Chairman with the American Committee for Protection of Foreign Born, Honorary Chairman.

[fol. 3979] Will you tell us when you first established a formal connection with the American Committee for Protection of Foreign Born?

A. I think it was 1950. I got a letter—

Q. Well, just hold on—

The Witness: Yes.

Q. —you say you think it was in or about 1950?

A. Yes.

Q. And at that time did you assume a position or title with the American Committee for the Protection of Foreign Born? I mean, just answer yes or no.

A. I was asked to be a sponsor, and I accepted.

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[fol. 3995] Q. Professor Smith, in the year 1951, did you attend any national conferences of the American Committee for Protection of Foreign Born?

A. Yes. The conference was in Chicago that year, I think.

Q. Was that the annual national conference of the Committee—

A. That was the annual national conference. I had to be in Chicago—

Q. Well, just a moment.

The Witness: Yes.

Q. Do you remember when in 1951 that conference was held?

A. In December.

Q. In December of 1951?

A. Yes.

Q. Now, when did you—strike that.

How did you first learn that this conference was going to be held in December 1951?

A. It's always been the policy of the Committee to send [fol. 3996] to the sponsors notices of important meetings and notices of publications, various things, and I got the notice of the conference at Chicago with the date because I was on the sponsor list.

Q. Now, how did you come to attend that conference?

A. I had to be in Chicago in any case during the part of the Christmas vacation to consult with one of the professors in Chicago about a book we were working at, and since I had to go anyway, I thought I would like to see what the annual conference was like.

I wanted to know what I was sponsoring in more detail than I did know.

Q. Was this the first conference of the American Committee that you attended?

A. Yes, it was.

Q. For how many days did that conference last?

A. It was Saturday and Sunday, I think, and I think there was perhaps a meeting or two of smaller groups before it or after it, but that I don't know.

Q. Now—but, the conference itself was a two-day conference of Saturday and Sunday?

A. Yes, sir.

Q. Did you attend the conference both days?
A. Yes, I did.

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[fol. 4000] Q. Now, were officers elected at this conference?
A. Yes, they were.
Q. And these were officers who were to serve for the—
A. Ensuing year.
[fol. 4001] Q. —ensuing year? What officers were elected and to what positions?
A. They had asked me, after they knew I was going to be at the Conference, if I would accept the office of Honorary —of Co-Chairman, and I did accept it. There were elected at the Conference the Honorary Chairman, Bishop Moulton of Utah; the Co-Chairman George Murphy and myself and Abner Green as Executive Secretary.

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[fol. 4004] Q. This position of yours as Chairman, was that a salaried position?
A. It certainly was not.
Q. What about your position as a sponsor, was that a salaried position?
A. No, definitely not.
Q. Well now, have you received any salary or pay for any position that you have held in the American Committee for Protection of Foreign Born?
A. I have not.

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[fol. 4019] Q. Now, were officers elected at this December 1952 Conference in Detroit for the ensuing year?
A. Yes.
Q. Who elected these officers?
A. The delegates.
Q. You mean the 300 or so delegates of 190 or so organi-
[fol. 4020] zations?
A. Yes.
Q. They elected the officers?
A. Yes.
Q. Who were the officers who were elected?
A. Bishop Moulton was re-elected as Honorary Chairman and Mr. Murphy and myself as Co-Chairmen, Abner Green as Executive Secretary.

Q. Well, using this to refresh your recollection, do you remember whether or not a Treasurer was elected, also, at that meeting, at that Conference?

A. Charles Musil has acted as Treasurer. I have an idea—yes, that is so.

Mr. Knight: May I interrupt here a second, Mr. Chairman? In order to identify Mr. Murphy, perhaps the professor might remember Mr. Murphy's full name?

The Witness: George Murphy.

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[fol. 4177] December 21, 1955

Cross examination.

By Mr. Knight:

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[fol. 4179] Q. Yes. Well, you are national chairman, aren't you?

A. I am Chairman of the American Committee. There isn't any such thing as a national chairman.

Q. Well, you are Chairman of the—

A. I am Honorary Co-Chairman of the American Committee but that gives me no responsibility for local committees.

[fol. 4180] Q. Did anybody ask you if you had responsibility for local committees?

Mr. Forer: I object to that question as argumentative.

Mr. Morrissey: It may go out.

A. I haven't any responsibility anyhow.

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[fol. 4242] December 22, 1955

Q. Fine. Now, Professor, during the five-year period that you have been connected with the American Committee for Protection of Foreign Born, did you maintain a desk in the office of the American Committee for Protection of Foreign Born?

A. No, sir.

Q. Starting with the year 1951, can you recall how many times, if any, you visited the office of the American Com-
[fol. 4243] mittee for Protection of Foreign Born in New York?

A. No.

Q. Would you care to approximate it: twice, perhaps, three times?

A. Oftener.

Q. Oftener?

A. I should guess that it would be on an average of once a month or once in six weeks.

Q. You would go to New York and visit the office of the American Committee?

A. I always visited the office if I was in New York for any reason, and I was often in New York for reasons quite unconnected with the Committee. Then I also went down, if there was any special party or something of that sort that I thought it would be fun to go to.

Q. And to the best of your recollection, in 1951, that would be about every six weeks.

A. I should think so, from 1951, on.

* * * * * * *

[fol. 4288] Q. Professor Smith, on the occasion of your visits every four, five or six weeks to the office of the American Committee for Protection of Foreign Born, would you have an opportunity to observe the workings of the Committee, the daily day-to-day routine of the Committee?

A. Not the ordinary executive routine which is done by the secretary in the office. I never checked the day-to-day activities as they were carried on in the office. If something
[fol. 4289] was going on that was interesting when I appeared, we talked it over but I was in no sense a supervisor of the office activities.

Q. Well, who would you say was supervisor of the activities of the office?

A. We gave the general council—the general council formulated the policy of the year and handed over the carrying out of that policy to the Executive Secretary.

Q. Then the Executive Secretary, we might say, was actually in charge of the office in its day-to-day workings?

A. Yes. At least he was responsible for it. I don't know how much of it he did himself and how much he delegated.

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[fol. 4290] Q. Now, Professor, were you present in the office of the American Committee for Protection of Foreign Born at any time during the year 1951 for a full day? That is, from 9 o'clock until 5 or 5:30, whatever the office hours were?

A. No.

Q. You would visit then, you would drop in, is that true, to the office?

A. Yes.

Q. For about how long a time would you stay on the average visit?

A. An hour or so. I don't know how long.

Q. I imagine, I would assume you would talk to Mr. Green?

A. Yes, with anybody else in the office.

Q. Possibly with Miss Baron?

A. Yes.

Q. Or Miss Strange.

[fol. 4291] A. At no time when I personally was in the office did Miss Strange have a desk in the office. Her office was elsewhere but I have met here in the Committee meeting room, I think. I know, as I say, I lunched with her once.

Q. Your average day on these visits would approximate one hour, would that be a fair statement?

A. If you mean average, I suppose so because sometimes I just stopped in to pick up somebody to go to lunch, which would bring down the average, but I often sat down in the office for a long discussion that lasted for a couple of hours.

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[fol. 4349] Q. Now, Professor, going back to Detroit, Michigan, on December 14, 1952, were you in Detroit?

[fol. 4350] A. I have been in Detroit.

Q. Were you there on that date, December 14, 1952, if you remember?

A. That is the date of the Detroit annual—when the annual conference was in Detroit, isn't it?

Q. Is that your recollection?

A. Well, I have to get them—to count them out on my fingers to get them straight, but at the moment that is what I would think.

Q. Yes. You previously testified, Professor, that you met a man named Nat Ganley there in Detroit?

A. Yes.

Q. Do you recall if Nat Ganley addressed an open meeting there in Detroit of the American Committee or Michigan Committee for Protection of Foreign Born?

A. His wife was a deportee and he did speak at such a meeting.

Q. Do you recall what he said?

A. Some of it,

Q. Would you tell us what you recall?

A. He told us that he was under indictment under the Smith Act, that his wife was under deportation sentence. That they had a young daughter who might therefore be obliged to choose between leaving the country of her birth to go with her mother or remaining in this country where [fol. 4351] she could see her father in prison on occasion. He told us of what he had learned as a boy in the American public schools, that America was the land of equal opportunity and freedom, that in America one could think out one's problems, discuss them without fear, things of that sort. It was one of the most moving descriptions of what I have always supposed was the American ideal of freedom that I have ever happened to listen to. My throat ached and I had trouble keeping back the tears and I don't often have that happen to me.

Q. Do you recall whether Nat Ganley said, I am a communist and I am proud to be a communist?

A. I think he did. Which made me wonder whether my opinion of the Communist Party was wrong.

Q. No, did you also speak that same evening, Professor?

A. Whether I spoke the same evening, I don't think so. I think I was presiding but I am not sure I spoke at that conference.

Q. As presiding officer wouldn't it be your duty to introduce the various speakers of the evening?

A. Yes, I probably did.

Q. Possibly make a few remarks about them?

A. Yes.

Q. Now, concerning Nat Ganley, did you say it is important at this time to keep in with the order of the day. Although I am not now or never have been a communist, [fol. 4352] America needs more loyal communists like Mr. Ganley. Did you say that, Professor?

A. I certainly said something very like that. I don't know whether those are exact words or not. I was tremendously impressed by Mr. Ganley's tribute to what he had learned of American freedom and I thought that America needed more people who understood freedom that way, whatever party label they happened to bear. I still think so.

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[fol. 4387]

BEFORE THE SUBVERSIVE ACTIVITIES CONTROL BOARD

Docket No. 109-53

[Title omitted]

January 4, 1956

[fol. 4388] DR. ANTON JULIUS CARLSON, called as a witness by and on behalf of Respondent, having been duly sworn, was examined and testified as follows:

Direct examination.

By Mr. Forer:

Q. Will you state your name, please?

A. Anton Julius Carlson.

Q. Where do you live, Dr. Carlson?

A. 5228 Green Wood Avenue, Chicago 15, Illinois.

Q. And what is your occupation?

A. I have been an investigator and a teacher. I still am, to a certain extent, an investigator and teacher.

Q. An investigator and teacher? What sort of things do you investigate?

A. Well, I specialized in biology and medicine in my early years, and that is a very complicated field because it involves the past, the present environment and the nature of man and animals, foods—very complicated.

Q. Dr. Carlson, do you have any connection or position with the American Committee for the Protection of Foreign Born?

[fol. 4389] A. Yes. I have sponsored it for, I think, some ten years, or possibly more, in Chicago.

Q. I am just talking about the American Committee.

A. The American Committee, yes.

Q. And I understand that you are and have been for sometime a sponsor of the American Committee; is that right?

A. That is right.

Q. Now, do you also have any position or connection with the Mid-West Committee for the Protection of the Foreign Born?

A. Yes. I sponsored that and I have been Chairman and Co-Chairman of that Committee for—oh, since 1952, I think.

Q. So you have been a sponsor, Chairman and Co-Chairman of that organization?

A. Yes.

Q. What are you at present?

A. Co-Chairman.

Q. You are Co-Chairman?

A. As well as a sponsor.

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[fol. 4443] Cross examination.

By Mr. Knight:

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[fol. 4474] Q. Yes. Now, as a co-chairman, did you have the power to approve the appointment of Miss Heit as acting executive secretary of the Mid-West Committee?

A. I don't think so, so far as I knew the rules.

Q. You did not have the power to approve or disapprove of her taking office?

A. Not so far as I can recall.

Q. Do you know who did approve of Miss Heit?

A. I do not. I suppose the executive committee.

Q. But you don't know yourself?

A. No, I do not.

Q. You weren't a member of the executive committee yourself, were you, of the Mid-West Committee for the [fol. 4475] Protection of Foreign Born?

A. No.

* * * * * * *

[fol. 4476] Q. Yes. Now, in 1955, that is last year, Doctor, you were elected to the position of chairman or co-chairman.

A. Co-chairman, reelected.

Q. You were reelected. Were you present during that election?

A. No, I was not.

Q. Well, how were you notified that you were elected, Doctor?

A. By letter.

Q. Did you know that your name had been placed in nomination to be co-chairman?

A. I suppose my name was placed in nomination because my was elected co-chairman.

Q. You were elected co-chairman.

A. No, the other man that you referred to.

Q. No, I am referring to you, Doctor.

A. All right.

Q. You were not present in 1955?

[fol. 4477] A. No.

Q. In 1954 you also were either chairman or co-chairman?

A. Elected.

Q. Now, were you present in 1954?

A. I don't recall whether I was or not. I don't think I have been present at any of the meetings when I was elected an official.

Q. During the time that you have been connected with the Mid-West Committee, about how many meetings did you attend, Doctor?

A. I don't recall.

Q. Would you care to estimate for us?

A. No, I would make no estimation until I look up the record. I don't recall.

Q. Could you give us your best recollection; maybe three a year?

A. No, I could not do any guessing before a court.

Q. Well, would you say, Doctor—well, strike that.

Doctor, did you have an office in the offices of the Mid-West Committee?

A. No. My office is only at the University of Chicago.

Q. Did you have a desk there?

A. Where; at the University of Chicago?

Q. No, at the Mid-West Committee.

A. I did not.

[fol. 4478] Q. Well, about how many times a week or a month, Doctor, would you visit the office of the Mid-West Committee?

A. There was no regular visit by me to that Committee.

Q. No regular visit, sir?

A. No.

Q. Approximately how many times to your best recollection would you go?

A. I can't guess.

Q. By the way, what is the address of the Mid-West Committee for the Protection of Foreign Born in Chicago?

A. I don't remember. I have some stuff here giving the address, but I don't carry those. I have got more important things to carry.

Q. Now, Dr. Carlson, in 1953 you were elected co-chairman or chairman of the Mid-West Committee, weren't you?

A. I think I was elected Chairman in 1952 and Co-Chairman in 1953.

Q. In 1953?

A. I think so.

Q. In 1953 were you present when you were elected?

A. No, I was not present at any meeting when I was elected.

Q. That would include the year 1952 as well, Doctor?

A. I think so, as I recall.

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[fol. 4487] Q. All right. Now, you became chairman or co-chairman of the Mid-West Committee in 1952?

A. Chairman, I think, yes.

Q. Yes. Now, will you tell me how you became chairman or co-chairman of the Mid-West Committee in 1952? Can you recall how that came about?

A. No, I can't. I had no knowledge of it. I was just [fol. 4488] elected by the conference or executive committee; that was all. I think I was asked beforehand, will I accept the election if I am elected. That is all I can remember.

Q. Were there any letters written to you? Were you notified by mail?

A. I don't recall. If they were, they weren't important enough to carry on my mind as long as this.

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[fol. 4496] Q. Now, Doctor, can you recall for me, please, if you can, when the last time was that you visited the office of the Mid-West Committee for the Protection of Foreign Born?

A. I cannot.

Q. Doctor, let me ask you this, have you been in the Office of the Mid-West Committee within the last three or four or five months?

A. I don't think so; no.

Q. About how many times since you became co-chairman or chairman of the Mid-West Committee have you been actually in the office?

A. I don't recall.

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[fol. 4498] Q. I have not finished. Can you recall who served on the Executive Committee of the Mid-West Committee in 1952?

[fol. 4499] A. No, I cannot.

Q. Do you know who was treasurer in 1952?

A. I don't recall.

Q. Can you recall who served on the Executive Committee of the Mid-West Committee for Protection of Foreign Born in 1953?

A. I don't recall those names, no.

Q. In 1954?

A. I do not recall.

Q. Can you recall who the present members of the Mid-West Committee for Protection of Foreign Born are?

A. No, I am not sure.

Q. Doctor, pardon me; that question may not be clear. Can you recall who the members of the Executive Com-

mittee of the Mid-West Committee for Protection of Foreign Born were in 1955?

A. No, I do not recall.

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[fol. 4800] January 10, 1956

ABNER GREEN a witness on behalf of the Respondent, having been first duly sworn, was examined and testified as follows:

Direct examination.

[fol. 4801] By Mr. Forer:

Q. You are Abner Green?

A. I am.

Q. And you are Executive Secretary of the American Committee for the Protection of Foreign Born, which is the Respondent in this proceeding; is that correct?

A. I am.

Q. Where do you live, Mr. Green?

A. New York City.

Q. When and where were you born?

A. I was born in New York City, Borough of Manhattan, April 15, 1913.

Q. And you are therefore a citizen of the United States by birth, is that correct?

A. Native born citizen of the United States.

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[fol. 4818] Q. Now, about how long were you in this Washington office of the American Committee for the Protection of Foreign Born?

A. It was some six months of 1941.

Q. I didn't quite hear you. Did you say some six months?

A. About six.

Q. About six months.

A. A few weeks more or less, but it was about six months.

Q. In 1941?

A. In 1941.

Q. And what happened after that, after you finished at Washington? Where did you go?

A. I returned to New York City.

Q. And did you resume or continue working for the American Committee for the Protection of Foreign Born?

A. Yes, I did.

Q. In what capacity?

A. I continued my title then of Educational and Legislative Director of the American Committee.

Q. Now, how long did you, or let me put it this way, until what date did you have the title of Educational and Legislative Director?

[fol. 4819] A. Until the end of December 1941.

Q. And what happened at the end of December 1941?

A. I was elected Executive Secretary of the American Committee.

Q. And have you been Executive Secretary of the American Committee ever since?

A. Yes, I have.

Q. Now, you say that you were elected Executive Secretary of the American Committee at the end of December 1941. Do you know the exact date that you were elected Executive Secretary of the American Committee for the Protection of Foreign Born?

A. I think it was December 27th or 29th of 1941.

Q. It could have been December 29, 1941?

A. Yes, sir.

Q. Now, who elected you secretary on or about December 29, 1941?

A. The Board of Directors of the American Committee.

Q. At that time the American Committee had a Board of Directors?

A. Board of Directors, yes.

Q. Now, I don't want to go over at this time each election, but you have been reelected annually since then; is that correct?

A. Yes.

Q. Now, who reelected you in your various reelections?

A. Since 1941 I believe it has been the annual conference [fol. 4820] when held that elected all officers, including the Executive Secretary.

. . . . . .

[fol. 4822] By Mr. Forer:

Q. All right. Now, in 1936 when you first had anything to do with the American Committee for the Protection of Foreign Born, did the American Committee have an Executive Secretary?

A. Yes.

Q. Who was the Executive Secretary at that time?

A. Dwight C. Morgan. I don't know whether he was called Executive Secretary or Secretary. I believe it was the latter, but essentially the duties and responsibilities are the same.

Q. You mentioned Irving Novick. In 1936, at this time when Dwight C. Morgan was Executive Secretary, did Irving Novick have a position with the American Committee for the Protection of Foreign Born?

A. It is my recollection at that time he had the post of treasurer.

Q. He was treasurer.

Now, what happened to Mr. Morgan?

A. Mr. Morgan died in the latter part of 1938. I believe he had a cerebral hemorrhage then.

Q. Now, who assumed his duties after his death?

A. Mr. Novick assumed his duties, although not his public post.

Q. You mean, but Mr. Novick was acting secretary?

A. Acting secretary.

Q. About how long was Mr. Novick acting secretary?

[fol. 4823] A. For a period of about a year and a half to two years.

Q. Can you tell us about when that was?

A. Well, I believe during the years of—I believe it was at the very end of 1938 that he became acting secretary, and then through 1939 through 1940, most of 1940. It was about two years, I would estimate.

Q. Now, at that time did Mr. Novick become the secretary rather than the acting secretary at any time during this period of 1939 toward the end of 1940?

A. No.

Q. He was just acting secretary?

A. Acting secretary throughout that period.

Q. Now, do you know why it was or how it was that at that time—well strike that. Well, toward the end of 1940, did someone become Secretary or Executive Secretary, getting the full title rather than the acting title?

A. Yes.

Q. And what was the name of that individual.

A. Curt Swinburne.

Q. And do you remember when in 1940 Curt Swinburne became Executive Secretary of the American Committee? Let's call him Executive Secretary for the purposes of my questions and your answers, whether his title was officially Secretary or Executive Secretary at the time.

A. It was on or about—

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[fol. 4824] Q. Do you remember the pending question, Mr. Green?

A. No.

Mr. Morrissey: Read it back, will you please?

(The pending question was read by the reporter.)

The Witness: It was some time, as I remember, around the end of October 1940.

By Mr. Forer:

Q. Now, was there any reason why Mr. Novick did not succeed Mr. Morgan as Secretary or Executive Secretary at the time that Mr. Morgan died?

[fol. 4825] A. It was purely Mr. Novick's own decision. It was the general feeling, including my own at the time, that he should become Secretary; that he had the qualifications and the ability to serve as Secretary, but he did not want to accept the post because of his feelings that the Secretary of the American Committee for the Protection of Foreign Born or the Executive Secretary, the leading administrative officer, should be a native-born person. Mr. Novick himself had been an immigrant and was a naturalized citizen. He felt—he was always very self conscious about his accent, and there was nothing that could convince him that he should become Secretary. It was at this

time this specific factor which more or less determined in his own mind, the best that I could figure it out, that someone who was a native-born person, like Mr. Morgan or Mr. Swinburne at that time when Mr. Swinburne came to the organization, who should be the spokesman for the organization and the Executive Secretary.

Q. Well, now, when Mr. Swinburne became Secretary or Executive Secretary toward the end of 1940, what happened to Mr. Novick?

A. At that time because of the, I would say, big case load, big load of the tremendous amount of work that developed in the period of alien registration when the Smith Act, which was then known as the alien registration act, was first passed by Congress, and there were literally hun-
[fol. 4826] dreds upon hundreds of non-citizens who came to the office of the American Committee seeking advice and help in the filling out of the questionnaires under the alien registration act that it was felt advisable to establish a New York Committee for the Protection of Foreign Born to deal with the people coming into the office so that the service could be extended to the people, this kind of work in dealing with the people directly and in filling out questionnaires and in filing applications for citizenship, since a large number of people became very anxious to become citizens, that the New York Committee for the Protection of Foreign Born was established to handle this case load, and Mr. Novick was assigned responsibility for the work of this New York Committee for the Protection of Foreign Born.

Q. Now, in 1940 who had the principal authority or what body of the American Committee for the Protection of Foreign Born was the governing body?

A. The annual conference, the national conference.

Q. The annual conference met once a year, but when the annual conference wasn't sitting, who had the authority and charge of the organization; that is, what was the body empowered to make decisions and settle policy?

A. The title of the body varied.

Q. I am talking about 1940.

A. In 1940 I believe it was the Board of Directors, which was elected by the annual conference.

. . . . . .

[fol. 4836] Mr. Forer: Mr. Chairman, Respondent's Exhibit 127 for identification is a one page mimeographed document giving the minutes of a meeting of the Emergency Committee of the National Board of Directors of the American Committee for Protection of Foreign Born, held on [fol. 4837] Monday, December 29, 1941, at Room 1505, 79—5th Avenue, New York City. Was that the address of the American Committee for Protection of Foreign Born at that time; that is, Room 1505, 79—5th Avenue?

A. That was the address of the American Committee. That is where it had its offices.

. . . . . .

Q. In other words, this was an emergency meeting following the outbreak of the war, shortly after Pearl Harbor?

A. Yes.

. . . . . .

[fol. 4841] Mr. Forer: I want to call to your attention, Mr. Chairman, the following things on Respondent's Exhibit 127, the minutes for December 29, 1941.

Paragraph 2 shows that Mr. Green reported on the need for reorganization of the Committee's personnel to fill vacancies and to meet responsibilities growing out of the war. Then it says that Curt Swinburne, Secretary, has found it necessary to secure other employment and has not been functioning as secretary for several months. "Irving Novick, Naturalization Aid Director, has requested that he be relieved of his responsibilities in order to seek other employment."

Then the minutes go on to show that Mr. Swinburne's resignation was accepted and that Abner Green was elected [fol. 4842] to serve as secretary. This is documentary corroboration of Mr. Green's testimony that he succeeded Mr. Swinburne as secretary. He said either December 27 or 29, 1941, and it shows December 29.

. . . . . .

[fol. 4844] Q. Did Mr. Novick resign at or about that time; that is, at or about the time that those minutes are dated and show his resignation was accepted? Did he resign from the American Committee?

A. Yes.

. . . . . .

[fol. 4845] Q. Now, Mr. Green, John Lautner testified here on the stand, under oath, that in 1942, he believed about the spring, there was a meeting at Communist Party Headquarters at which were present Mr. Lautner and a man by the name of Avro Landy, both of them representing the Communist Party, and you and Mr. Irving Novick, and that at this meeting Lautner and Landy, representing the Communist Party, explored some difficulties that were supposed to exist between you and Mr. Novick and that they decided; that is, that Lautner and Landy then decided to remove Novick as secretary of the American Committee for Protection of Foreign Born and put you as Mr. Novick's successor. I believe you were present in the room when that testimony was given; is that right?

A. Yes, sir.

Q. You recall the testimony I am referring to?

A. I do, yes, sir.

Q. Now, was that testimony that Mr. Lautner gave true?

A. It was completely false. Certain of the testimony [fol. 4846] doesn't require a denial. Very obviously from what I have said, I did not succeed Irving Novick.

Q. Never mind the detail. The point is that you mean Mr. Lautner's testimony about this meeting was false?

A. Completely.

Q. Now, according to Mr. Lautner's testimony, he and Avro Landy removed Novick as Executive Secretary and put you in as Mr. Novick's successor. Now, did you succeed Mr. Novick as Executive Secretary?

A. No, I did not.

Q. Who did you succeed as Executive Secretary?

A. I succeeded Curt Swinburne as Executive Secretary of the American Committee.

. . . . . .

[fol. 4862] By Mr. Forer:

Q. Mr. Green, going back to the time when Curt Swinburne was executive secretary of the Committee for Protection of Foreign Born, as I understand it at that time Mr. Novick was in charge of the New York Committee's office and Naturalization Aid Director. Was there any difference in salary between what Mr. Swinburne was receiving as executive secretary and what Mr. Swinburne was receiving at that time in the job he had? I am talking about the salary from the American Committee for Protection of Foreign Born.

A. To the best of my recollection, there wasn't any difference in the salaries paid Mr. Swinburne and Mr. Novick.

• • • • • • •

[fol. 4863] Q. What about you? Did you receive more at that time; that is, during the period when Mr. Swinburne was executive secretary, as you recall it? Was your salary more or less than the salary of Mr. Swinburne and Mr. Novick?

A. I believe it was slightly less at the time because my responsibilities were less.

Q. Did you get an increase in salary when you became executive secretary?

A. No.

Q. You mean you still had the same salary as before?

A. Yes.

Q. Which was less than Mr. Novick had previously been making; is that right?

A. Yes. It wasn't a large difference.

• • • • • • •

[fol. 4873] Q. Before I go on to that conference, you have already told us that the national conference was the chief governing body. In general, what was its function and what did it do when it met?

A. The purpose of the annual national conference at that time, to the present date, is to serve as a general review of the work of the American Committee for Protection of Foreign Born during the preceding year, to discuss current problems facing the organization, and, in

addition, of course, facing the foreign born in the United States and to work out a general program for the coming year to serve as a guide for the work of the organization and the administrative staff and the officers in carrying out the program of the American Committee.

Q. Does this national conference set policies for the organization?

[fol. 4874] A. The national conference is actually the only body of the American Committee that has ever set the policies of the organization.

Q. Now, does the national conference elect the officers of the American Committee?

A. It does at the present time.

Q. Are the policies and decisions of the national conference binding on the officers of the American Committee?

A. Yes.

* * * * * * *

[fol. 4880] Q. At these conferences, and I am now talking about all of them, do people vote at these conferences from time to time?

A. Usually the final business session is a session where there is a report from the various committees of the conference, such as Credentials Committee, Nominating Committee, Resolutions Committee, and then on occasions there has been a committee on the constitution, when consideration of the constitution is felt advisable or at times the Resolution Committee handles the question of any amendments to the constitution.

All of these reports are voted upon by the conference and amended or adopted or voted in.

Q. Who can vote on these various matters?

A. Anyone who is present at that session at the time when this business is conducted can vote on these committee reports.

* * * * * * *

[fol. 4883] Q. It is true, is it not, that the secretary or executive secretary has always been the chief administrative officer of the American Committee?

A. Yes, sir.

Q. And that is a salaried position, right?

A. Yes.

Q. The office of chairman, has that been a salaried position?

A. No, it has never been a salaried position.

Q. But the secretary is expected to work full time; is that correct?

A. To work in the office or anywhere else for the organization, yes.

* * * * * * * *

[fol. 5094] January 12, 1956

By Mr. Forer:

Q. There is already in evidence Respondent's Exhibit 88, which was the constitution, which, as you have already testified and as Dr. Smith testified, is the current constitution of the American Committee for Protection of Foreign Born, which was adopted, I believe, in December of 1950. Is that [fol. 5095] correct?

A. Correct.

Q. Now the last paragraph of article 2 says that the American Committee shall be an unaffiliated, non-membership, independent, non-partisan body. Is it a fact that the American Committee is a non-membership body?

A. Yes.

Q. And has that been a fact at all times since the adoption of this current constitution which was adopted in December of 1950?

A. No.

Q. You mean that at sometime since the constitution, the current constitution, was adopted in December of 1950 it has not been a non-membership body?

A. I am sorry, I thought you referred to a period before 1950.

Q. No, since the current constitution was adopted—the current constitution—has the American Committee at all times been a non-membership body?

A. Yes.

Q. We'll get to the situation of what existed before the 1950 constitution was adopted. Now talking merely of the time since the constitution was adopted and up to the present moment, does the Committee have or did it have at any

time during that period any requirements or definition of [fol. 5096] a member of the American Committee?

A. No.

Q. At any time during that period and as of this moment, has the Committee issued membership cards to any individuals showing that they were a member of the organization?

A. No.

Q. Does the Committee have or maintain a list of members or has it had any list of members at any time since the constitution, the current constitution was adopted in December of 1950?

A. No.

Q. During this period that we are talking about, has there ever been a membership meeting or any meeting called a membership meeting of the American Committee?

A. No.

Q. Now from time to time since this constitution was adopted, there have been officers elected and there have been votes adopting resolutions on behalf of the American Committee; correct?

A. Yes.

Q. Were those officers elected by members?

A. No.

Q. Was the voting during this period of time done by members?

A. No.

[fol. 5097] Q. Now we have already, both in your testimony and in Dr. Smith's testimony, brought out the fact that officers were elected at the annual conference where they voted on the policies of the organization, and you have already testified and Professor Smith testified that anybody could vote if they registered, and that the only condition on registering was payment of the registration fee, two dollars or so. Did the right to vote, as a result of paying this registration fee and registering, was that conditioned in any way upon membership in the organization?

A. No. The only condition to voting was registering at the conference and there could not have been any condition of membership since there were no members.

* * * * * * *

[fol. 5231] January 17, 1956

By Mr. Forer:

Q. Did you speak at the meeting in Los Angeles on January 5, 1951, which is referred to in Petitioner's Exhibits 65 and 66?

A. As I recall, I was in Los Angeles at that time and spoke at that meeting on January 5, 1951.

Q. And was that an evening meeting?

A. That was a meeting held in the evening.

Q. Was that held in the Convention Hall of the Embassy Auditorium?

A. I remember it was held in the Embassy Auditorium. The leaflet says Convention Hall. I assume that is the hall it was held at. I don't remember the names of the various halls.

Q. Now, how did you come to be in Los Angeles in January of 1951? I mean, did you make a special trip out for this meeting or what?

A. No, the deportation hearings were scheduled in the case of Dr. Krishna Chandra, noncitizen, who faced deportation to India on the charge of membership in the International Workers Order, and the hearings then were at that time scheduled on January 10th and 11th in San Francisco. Dr. Chandra was a resident at that time and still is of Sacramento, California. In view of the fact that I was going to go to the hearings in San Francisco, because we felt that this question of deportation of people for membership in a fraternal insurance organization was a very important one so far as the rights of noncitizens were [fol. 5232] concerned, that I communicated with Los Angeles and indicated that I was to be in San Francisco at that time on or about January 10th; I was scheduled to get to San Francisco actually about January 8th or 9th, I believe, and I would be willing to appear at a meeting if one were to be organized in Los Angeles, and that was the manner in which this meeting of January 5th resulted.

At the time, if I remember correctly, there were some four noncitizens who had been held at Terminal Island without bail in deportation proceedings since October of

1949, and these four cases eventually resulted in the extremely important decision by the Supreme Court known as the Carlson case, where the Supreme Court sustained the Justice Department's rights to hold noncitizens without bail in deportation proceedings if there are legitimate grounds.

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[fols. 5528-6445] February 7, 1956

Cross examination.

By Mr. Knight:

• • • • • • •

[fol. 6560] February 8, 1956

Q. Well, what is your recollection of that meeting in the month of May 1950 then, Mr. Green?

A. It was a meeting called by the American Committee for the Protection of Foreign Born at which there was some ten or fifteen participants, the meeting being devoted to the general problem of the cases then pending in New England and the work of the American Committee for the Protection of Foreign Born. What I did at the meeting and in the course of my discussion was to urge the establishment of some organization. Some people at that time volunteered to set up a committee, but that committee was never set up at that time. It just simply never functioned, never had an office, never had an address; some people with perhaps good intentions who never did anything about those intentions in 1950. That is the full substance of my recollection of the meeting.

• • • • • • •

[fol. 6594] Q. Now, Mr. Green, in the year 1947, would you tell us, please, how many deportation cases were being handled by the American Committee for Protection of Foreign Born, speaking of deportation based on political reasons?

A. I believe there were two hundred cases pending at that time. Maybe I am not correct in the exact figure. It is within that figure.

Q. Your best recollection is two hundred?

A. Yes.

Q. Now, when you name that figure of two hundred, Mr. Green, are you including any cases which may have been pending in the office of the Mid-West Committee for Protec-
[fol. 6595] tion of Foreign Born?

A. Yes, I am including all cases in which the charges were based on the political opinions, as requested in your question.

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[fol. 6596] Q. Did those two hundred cases include cases handled by the Mid-West Committee for Protection of Foreign Born?

A. Yes. Certainly. The case like the Martinez case, in which the Mid-West Committee defended Martinez and the American Committee issued material and carried on activity seeking to prevent his deportation.

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[fol. 6721] February 10, 1956

By Mr. Knight:

Q. Now, in the year 1949, Mr. Green, do you know how many deportation cases there were pending in the office of the American Committee? I am speaking now of deportation cases for present or past membership in the Communist Party?

A. I would say the same two hundred that had been pending in 1948, plus possibly an additional fifty.

Q. Now, when we use the expression political cases, Mr. Green, would you define for us, please, what a political case is?

A. I will be glad to, Mr. Knight, except you used it first. I would appreciate your reformulating the question. My understanding of a political case is a case in which the charge is based on past or present membership in an organization advocating the overthrow of the Government by force and violence, under the act of 1939 as amended by the 1940 act.

• • • • • • •

[fol. 6722] Q. Yes, sir.

Now, would that figure, that over-all figure which you have given me of 250 of those cases in the year 1949, in-

cluded in that figure are there cases which were handled by say the Michigan Committee for the Protection of Foreign Born or the Midwest Committee for the Protection of Foreign Born?

A. Yes.

Q. And would the same apply to the Los Angeles Committee for the Protection of Foreign Born?

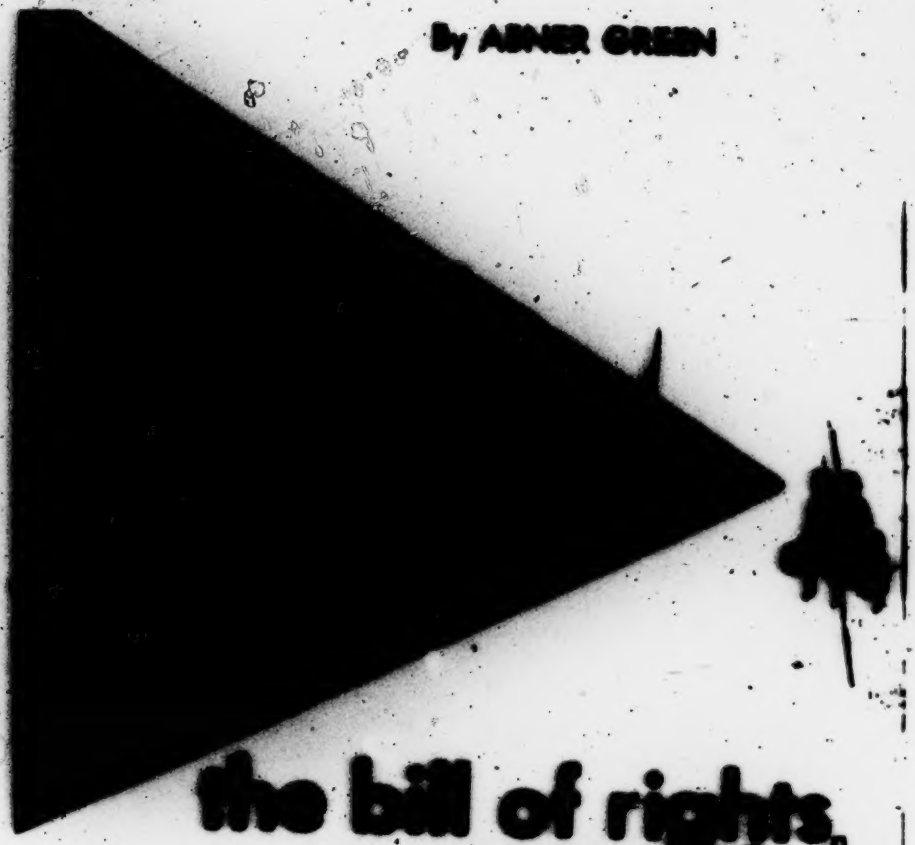
A. Yes.

Q. And the Northwest Committee for the Protection of Foreign Born?

A. Yes.

• • • • • • •

By ABNER GREEN



the bill of rights

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SUBVERSIVE ACTIVITIES CONTROL BOARD
Petitioner's
EXHIBIT NO. 57
Docket 100-53
Total Parts
v. Attorney General
Offered in Evidence
Received in Evidence
Reporter

THE McCARRAN ACT AND THE FOREIGN BORN

[fol. 6879] PETITIONER'S EXHIBIT No. 56

[fol. 6880]

AMERICAN COMMITTEE FOR PROTECTION OF FOREIGN BORN

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Executive Secretary
ABNER GREEN

Administrative Secretary
HARRIET BARBON

General Counsel
CAROL KING

Naturalization Aid Director
DOROTHY STRANGE

Treasurer
CHARLES MUSIL

[fol. 6881]

SUPREME COURT OF THE UNITED STATES

No. 909, October Term, 1963

AMERICAN COMMITTEE FOR PROTECTION OF FOREIGN BORN, Petitioner,

vs.

SUBVERSIVE ACTIVITIES CONTROL BOARD.

ORDER ALLOWING CERTIORARI—April 27, 1964

The petition herein for a writ of certiorari to the United States Court of Appeals for the District of Columbia Circuit is granted.

And it is further ordered that the duly certified copy of the transcript of the proceedings below which accompanied the petition shall be treated as though filed in response to such writ.

April 27, 1964